

817 62 THE
AUTHORITY, JURISDICTION
William AND Jones
Method of Keeping
County-Courts,
Courts-Leet, and Courts-Baron.

Explaining the Judicial and Ministerial Authority
O F

S H E R I F F S.

A L S O,

Law 57
The Office and Duty
O F A
C O R O N E R.

By WILLIAM GREENWOOD, Gent.

The Eighth Edition, very much enlarged, by adding the
Form and Method of holding a Court of Survey,
new Law Cases, Precedents of Presentments and
Surrenders, Declarations, Pleadings; with a Table
of the Fees, &c. rendering it more useful to Under-
Sheriffs, County-Clerks, Solicitors, Court-Keepers, &c.

In the SAVOR:

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T H E

P R E F A C E .

THE Alterations that have been made in the Laws relating to Courts and Court-keeping, occasioned a necessity of revising this whole Book, and of making such necessary Additions and Alterations as might render it the most useful and most complete of any on this subject; for this Purpose all the Old Laws concerning Military Trials, tho' retained in the last Edition, are omitted in this, they being taken up by the 15. Cap. 2. And the rest of the Statutes that have been since enacted concerning Sheriffs, are in their proper Places. The Book, which treats

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treats

treats of Courts, is almost wholly new; most of the Cases that are in the Report-Books, concerning Courts or Copyholds being inserted: There is also added to this new Edition, the Form and Method of holding a Court of Survey; and that nothing might be wanting to render this the most compleat System of the Law concerning Courts, several New Precedents of Presentments and Surrenders are placed at the End of that Part of this Treatise which more particularly relates to Courts. Lastly, The Court-Leet of Westminster having a mixed Jurisdiction, viz. as a Court-Leet, and also a particular Power given by an Act of Parliament which is not printed in the Statute-Book, 'twas thought fit to print that Act as a proper Appendix to the Whole.

Of the ORIGINAL
OF
SHERIFFS,
AND
SHERIFFS,
And the first INSTITUTION
OF THE
County-Court.

S HIRE is a Saxon-Word, and is the same Signification with the Latin Word *Partiri*, as saith Mr. Lambard in his Explanation of the Saxon Language; and Mr. Camden in his *Britannia* reporteth, That *Alfred* (a Saxon) King of England, was the first that divided this Kingdom into Shires, those Shires into Ridings, and those Ridings into Wapentakes or Hundreds, &c. likewise as Sir Henry Spelman in his Glossary saith, *Sunt qui Comitatum divisiones sub Terrarum & Othonibus, vel sub Carolo magno apud externos actuisse opinantur; quod de plurimis forte verum fuerit, nonnullis obiter antiquius deprehenduntur. Rem apud nos perspicuam facit Inguilphus, si sana fides. Rex Alfredus, (alias Aluredus & Ethelfridus, qui regnum inivit Anno 871.) totius, inquit, Angliae regiones & provincias in*

County-Court.

Shires go-
verned by
Sheriffs.

Derivation
of the
Word.

Comitatus primus omnium commutavit; Comitatus in Centuriæ & Hundredas & in decennas, (id est) tithingas, divisit. Which Authorities sufficiently prove the Original of Shires and their Divisions.

This Kingdom being thus dissected into Shires, every Shire is, by Letters Patent from the King, to be governed by one Officer call'd a Sheriff or Shire-Reeve, (*Viccomes*) compounded of two Saxon Words, which signifie a Governor of the Shire. Mr. Camden thus describes his Office: *Singulis vero annis nobilis aliquis ex incolis præficitur, quem Vicecomitem quasi Vicarium Comitatus nostra lingua Sheriff, viz. Comitatus præpositum vocamus; qui etiam Comitatus vel Provincia Questor recte dici potest.* But in Selden's *Jani* fol. 53, 54. you have two Governors of the Shire assigned, where he saith, *Præfectus Provinciarum qui antea vice Domini (ad Ingulphum reversus est Aluredum) in duo officia divisit. 1. in Judices, quos nunc Justiciarios vocamus, & in Vicecomites, qui adhuc idem nomen retinent. Facessat ergo Polydorus Urbinas, qui primos a Normannia petit Vicecomites, which we now call Vicount à Vicecomite, which cometh from our Conquerors the Normans, as Sheriff from our Ancestors the Saxons.* Also Sir Henry Spelman in his Glossary saith, *Quinam autem nunc essent Magistratus quos Ingulphus hic vocat Justiciarios & Vicecomites, non plane assequor. Reor Aldermanni Provinciarum & Grevii; de Grevii tamen munere nec habeo definitum; discrepare enim videtur a Vicecomite, quod hic adhuc Comitatus esset Vicarius, ille Regis Officialis; unde in Anglo-Saxonum legibus atque ipsius Aluredi, Grevium Regis, vel (ut Latine sapius redditur) Præpositus Regis appellatus est.* And that he is Governor of the County, the Words of his Patent import as much, viz. *Commisimus tibi custodiam Comitatus nostri Eborum; so that he is an Officer of great Antiquity, Trust and Authority, having from the King the Custody, Tuition and Command of the whole County. Co. l. 4. 33. Milton's Case.*

County-
Court
when
instituted.

Its Juris-
diction.

Who were
Judges
thereof.

King Alfred, at the Divisions of the Kingdom into Shires or Counties, instituted this Court called, *The County-Court*, and established Jurisdiction in it; granting Power and Authority to the Sheriff to hear and determine such Matters as should be brought unto him. This Court, or rather the Sheriff's Turn, held in every Wapentake, (as it is recorded by Mr. Selden in his Treatise of Tithes) was jointly exercised by the Bishop of the Diocess, and by the Sheriff or Alderman of the Scyresgemot, or Hundred or County-Court, where the one sate to give God his Right, the other for publick Right, that is, the one to judge according to the Laws of the Kingdom, the other to direct according to Divinity. And Sir Henry Spelman in his Glossary saith, *Comitatum simul regebant, pariterque in foro confidentes, judicia publica exercebant, hic secundum jus humanum, ille vero divinum. L. L. Canuti M. S. cap. 44. habeatur ter in Anno Bargemotus (i. e. Civitatis Conventus) & Schiresmotus (i. e. pagi, vel Comitatus Conventus) his nisi sepius opus sit: & intersit Episcopus & Aldermannus, & doceant ibi Dei rectum & sæculi: uterque scilicet pro suo*

Suo munere. Idem Ladgari L. I. cap. 5. sed pro Aldermannis, illie Comes extat (ut supra demonstravimus) & utrumq; recte. Nam in comitatu simul confidisse reor. Comitum qui Reipub. partes tueretur; Episcopum, qui Ecclesia; & Aldermannum, qui legem diceret & exponeret. But at the Norman Conquest this kind of holding Ecclesiastical Pleas in the Hundred or County-Court was taken away, as may appear by this Mandate of William the Conqueror, recorded in Seld. Jani lib. 2. fol. 76. Willielmus Dei gratia Rex Anglorum, Comitibus, Vicecomitibus & omnibus Francigenis, & Anglis qui Episcopatu Remigii terras habent, salutem. Scitatis vos omnes & ceteri fideles, qui Anglia manent; quod Episcopales leges, quæ non bene, nec secundum sanctorum Canonum præcepta, usque ad mea tempora in Regno Anglorum fuerunt, communi consilio Archiepiscoporum meorum, & cæterorum Episcoporum, & Abatum & omnium Principum Regni mei emendandas judicavi. Propterea mando, & Regia Auctoritate præcipio, ut nullus Episcopus vel Archidiaconus de legibus Episcopalibus amplius in Hundredo placita teneat, nec causam, quæ ad regimen animarum pertinet, ad judicium secularium hominum adducant, sed quicumque secundum Episcopales leges, de quacunque causa, vel culpa interpellatus fuerit, ad locum, quem ad hoc Episcopus eligerit & nominaverit, veniat, ibique de causa sua respondeat. & non secundum Hundredum, sed secundum Canones & Episcopales leges, rectam Deo & Episcopo suo faciat.

**The Con-
queror
took away
the Bi-
shop's
Power.**

All Actions whatsoever were brought in this Court before the Sheriff, as it is reported by Mr. Lombard in his *Archæion*. in that Particular of the Laws of *Edgar* to our Matter in Hand, viz. *Let no Man seek to the King in Matter of Variance, unless he cannot find Right at Home: But if it be too heavy for him, then let him seek to the King to have it lightened.* The very like thereof in Effect is to be seen in the Laws of *Canutus* the Dane some Time King of this Realm; out of which Laws may be collected these four Things.

All Causes
were to
commence
in the
County-
Court.

First, That every Man had Means, and was authorized to sue and commence their Actions in this Court, in their own Shire or County.

Secondly, That no Man ought to sue out of the County, or to remove or draw his Plea from thence without good Cause; both which Things do plainly appear in the Letter of this Law.

And not
without
good Cause
removeable
thence.

Thirdly, That the King himself had a High Court of Justice, wherein it seemeth that he sate in Person, as these Words do demonstrate, *Let him seek to the King, &c.*

And lastly, That the same Court of the King's did judge not only according to mere Right and Law, but also after Equity and good Conscience. And after this Order, and in these two Courts was all Justice administred. This Court continued until the Time of *William* the Conqueror, (and ever since during the Times and Reigns of the ancient Kings) and doth yet continue (in Manner) the same in Form and Sub-

County-Court.

hance that it then was ; and the Pleas ought no more to be taken from it now in our Days (without Cause) than they ought to have been ; which may evidently be proved by those ancient Writs of *Pone*, *Recordare*, and *Writ of false Judgment*, which are yet in Use to this Day, and to this only End, to remove Suits (upon Cause) out of this Court into superior Courts. But because this requireth great Search of Record (whereunto I have no Access) I must leave it to such whose Abilities and Opportunities fit them to travel in so intricate a Path.

Pleas of the Crown were also originally here determinable.

When this Jurisdiction was alter'd.

The Time when it is to be holden.

Co. Inst. 4. cap. 55. Of what Actions it holds Plea.

By Writ of Jusitices.

In ancient Times Pleas of the Crown, Indictments of Felony, Trespasses and other Offences were depending in this Court, or in the Sheriffs Turns, as may appear by *Glanvil*, Lib. 3. c. 2, 3, 4. By *Bracton* and *Britton* in divers Places, and by *Fleta*, Lib. 2. cap. 62. until the Statute of *Magna Charta*, c. 17. which lays expressly that no Sheriff shall hold Pleas of the Crown. And by the Statute of 1 Ed. 4. cap. 2. the Sheriffs, Under Sheriffs, Clerks, viz. County Clerks, and their Ministers, shall bring, present and deliver all Indictments taken before them in their Turns or Law-Days to the Justices of the Peace at the next Sessions of the Peace.

The County-Court is now, as it hath been always, holden once every Month upon a certain Day, the Month being computed according to eight and twenty Days in the Month, and not according to the Kalendar. *Magna Charta*, cap. 35. 9 H. 3. cap. 35. 2 E. 6. cap. 25. And by the Statute of 7 & 8 W. 3. cap. 25. It is enacted, That after the 25th Day of March, 1696, all County-Courts holden for the County of York, and all other County-Courts that were to be holden on a Monday shall be called on Wednesday, and not otherwise, any Custom to the contrary notwithstanding.

It holds no Plea of Debt or Damages to the Value of forty Shillings or above ; nor of Trespass *vi & armis ac contra pacem*, because a Fine is due thereby to the King ; yet if the Debt be forty Shillings or above, and the Plaintiff will acknowledge in his Declaration the Receipt of so much as will bring it within forty Shillings, in this Case the Plaintiff and Declaration is good : But if the Debt be above forty Shillings, as five Pounds, and the Declaration upon one intire Bargain or Promise, the Plaintiff cannot divide this into several Actions to make this Court hold Plea of it ; and the Defendant will get Advantage thereby upon the Trial, or he may have a Prohibition in some of the Courts at *Westminster*.

For Debt, Detinue, Trespass, and other personal Actions above forty Shillings the Sheriff may hold Plea by Writ of *Jusitices* to him directed, and made out by the Corisitor of that County ; which Writ is in Nature of a Commission to the Sheriff and his County-Clerk, and it is not returnable : But this Writ doth not alter the Nature of the Court, as to make

make it a Court of Record in that Action mentioned in the Writ; and the Sheriff is not Judge, but the Suitors, being Freeholders; yet all Judgments shall be pronounced by the Sheriff or his Steward. Who Judges.

This Court may be kept at any Place within the County at the Pleasure of the Sheriff, but not out of it; yet the Sheriff of Northumberland (by the Statute) is to keep his County-Court in the Town or Castle of Alnwick, and in no other Place. The Sheriff of Suffex (by the Statute) is to hold his County-Court one Time at Chichester, and the other Time at the Borough of Lewes, and so to be kept *alternis vicibus* for ever. And also the Sheriff of the County of Chester is to keep his County-Court in the Shire-Hall of the said County. Where to be kept.

To this Court all Persons dwelling within the County, being summoned, ought to appear by reason of their Residence in it; and if they do not appear according to Summons, they are attached or distrained by their Goods, to answer the Plaintiff in the Suit. Who ought to attend.
How punish'd if they don't.

No Fine can be imposed in this Court upon any Offender, because it is no Court of Record. *B. 69, 41. & 60. & 11. 43. Fitz. 73.*

But *Quere* if a Man may not be amerced for a Contempt or Disturbance of the Court.

This Court entertains no Suits for Charters of Land, for Inheritance of Freehold of Lands, or any Titles of Land, or to make several Plaints upon one entire Debt, or any Actions touching Life, or Actions to compel one to render an Account as Receiver or Bailiff. Its Jurisdiction.

The Sheriff of the County is to be elected every Year; for by the Statute of *14 E. 3. cap. 7.* no Sheriff shall carry in his Bailiwick over one Year, and then another shall be ordained in his Place, that hath Lands sufficient in his Bailiwick; and this to be done yearly in the Morrow of *All-Souls* in the *Exchequer-Chamber* by the same Statute; and the King's Letters Patent for the new Sheriff of *Yorkshire*, have usually been made out about the twentieth Day of *November* yearly; and if the Sheriff be then in the County, he is to be sworn by Vertue of a *Dedimus potestatem* for that Purpose. After he is sworn, he ought to be careful in deputing and constituting a County Clerk that is sufficient in Estate to indemnifie the Sheriff from all Actions occasioned by his Neglect or unskilful or unjust Management, and one that is well acquainted with the Practice of the Court, and very skilful in entering the Proceedings, and drawing them up to be returned with Writs of false Judgment, and will not suffer corrupt Dealings in any Kind. How and when the Sheriff is to be chosen.
Qualifications of a County-Clerk.

The County-Clerk ought to be endued with these Qualities according to the Description of *Fleta. Provideat sibi Vicecom. de Clerico circumspetto. & fideli, viro provido, & discreto, gratiofo, humili,*

humili, pudico, pacifico & modesto, qui in legibus, consuetudinibusque provinciarum, & Officio Comit. Clerici se cognoscat, & jura in omnibus teneri affectet, quique Subballivos in suis erroribus & ambiguis sciat instruere & docere, &c. which is thus englished, That a County-Clerk ought to be endued and qualified with Circumspection, Fidelity, Providence, Humility, Peace and Modesty, and must know the Laws and Customs of the Country, and have Ability to instruct and direct the Bailiffs or other Ministers in dubious Things wherein they may err. And as *Bracton* adviseth, *Qui nec ad dextram nec ad sinistram; vel propter prosperitatem terrenam, vel adversitatis metum a tramite justitie declinet: i. e.* He must neither be attracted by Price nor Corruption; nor any sinister Respect to wander out of the Way of Right.

To be constituted by the Sheriff,

The Sheriff (and not the King) hath Power to delegate this Office to whom he pleaseth, as appears in *Mytton's Case* in the fourth Report; where *Queen Elizabeth* by Letters Patent did grant the Office of Clerkship of the County-Court of *Somerset* to *Mytton* with all Fees, &c. for Life. *Arthur Hoplon*, Esq; Sheriff of the same Shire, interrupted him, because it was incident to his Office. *Mytton* complained to the Lords of the Council, and was referr'd to the two Chief Justices, *Wray* and *Anderson*; and after many Arguments concerning the Validity of that Grant, and Conference had with all the other Justices, it was resolved by all the justices, *nemine contradicente*, that the said Letters Patent were void; and their Reasons were, That the Office of Sheriff was an ancient Office before the Conquest, and of great Trust and Authority; for the King committeth unto him *Custodiam Comitatus*. And although the King may determine his Office *ad bene placitum*, yet he cannot determine it in Part, as for one Town or Hundred, nor abridge the Sheriff in any Incidents to his Office; for the Office is intire, and ought so to continue without any Fraction or Diminution, (unless by Parliament) and the County-Court, and entring of all Proceedings therein, are incident to the Sheriff's Office, and though it was granted when the Office of Sheriff was void, yet the new Sheriff shall avoid it; as *Scrogg's Case* in the Time of Vacation in the Office of Chief Justice of the Common Bench, *Queen Mary* granted the Office of the *Exigenter* of *London*; resolved, That the next Chief Justice shall avoid it, for it was incident to his Office. Also in all Writs directed to the Sheriff concerning the County-Court the King says *in Comitatu tuo*; and in Return of Exigents made by him, he says, *ad comitatum tant.* &c. and the Style of the Court proves it. In a false Judgment it is said, *In pleno Com. tuo recordari factas*, &c. and in a Precept of *Tolt*, it is said, *Summoneas, &c. quod fit ad Comitatum meum*: And it should be very inconvenient that another should have the Custody of the Entries and Rolls of Court, which may be imbezilled, and the Sheriff responsible

responsible for them. And it was resolved that the Custody of all Gaols within every County appertains to the Sheriff by Right, and are annexed and Incident by Law to the Sheriff's Office.

The County-Clerk must be careful in deputing honest, able and sufficient Men, as Bailiffs, for the executing of Precepts issuing out of the Court, and it is just Cause of superseding them if they take unreasonable Distresses, or more than the accustomed Fees, or do not make Return of their Precepts to the County-Clerk or the Plaintiff's Attorney.

And Bailiffs are to be appointed by him.

He ought to enter no Plaints (except on Writs of Justices, and in Case of Replevins) out of Court, but in full County, (sedente Curia) yet the Use is otherwise at this Day, and (as it seems) good enough, verifying the Proverb, *Communis Error facit jus*.

Plaints, where to be entered.

He must make the usual Process after the Plaints entered (but not before) against the Defendants, directed to the Sheriff's Bailiffs to summon, attach or distrein the Defendant by his Goods, to appear at the next County-Court after, to answer the Plaintiff in the Action. The County-Clerk and Plaintiff upon Complaint of the Party grieved, may be examined by one Justice of Peace concerning the taking and entering of Plaints in the County-Court and Book against the Statute: If thereby the Justice find any Fault or Offence against the Intent of the Plaintiff, it shall stand for a sufficient Conviction and Attainder, without any further Enquiry or Examination; and the Forfeiture is forty Shillings. And the said Justice must certify the Examination within a Quarter of a Year into the Exchequer, by the Statute of 11 H. 7. cap. 15.

Process thereon.

County-Clerk, if faulty therein, how to be punish'd.

If a Writ of Discharge of the ancient Sheriff be delivered to the County-Clerk, sitting in the County-Court, the Authority of the said Sheriff (although absent) shall presently cease. *Dyer 49.* But the Writ of Discharge is not to be delivered until the new Sheriff be sworn to execute his Office.

Writ of Discharge, its Effect. When to be delivered.

At the adjourning of every Court, he must appoint a Day certain for the next Court, to the Intent the Country may know what Time they may resort thither to hear the Writs of *Exigent*, and Proclamations read.

Time to be appointed for holding the Court.

The Office of a Coroner in this Court.

A Coroner is one of the principal Officers of this Court, Election of being chosen in it (by a Writ *de Coronatore eligendo*, directed to the Sheriff) by the Freeholders or Suitors in open and full Court, and is published there; so deriving his Authority under the Freeholders, and not under the Crown, by the King's Demise he is not out of Office as Sheriffs are;

a Coro. et.

and after the Sheriff is to return and certify into the Chancery the Election of every such Coroner; and their Names; likewise the County-Clerk in Court must administer to the Coroner his Oath for the due Execution of his Office.

His Office.

The Coroner being thus elected and sworn, he is to sit with the Sheriff in the County-Court, to give Judgment upon Outlawries, which Judgment shall be given and pronounced by him upon the *quinto exalt*, and the Sheriff is to return the Coroner's Judgment of Outlawry; for which see the Form afterwards. But by this Judgment the Party is not disabled, nor Goods forfeited, before the Outlawry appears upon Record.

Exigents and Proclamations to be made.

Exigents are to be proclaimed five County-Days one after another, and the Proclamations in open Court, and once in the open Sessions, and once at the Parish-Church Door where the Defendant doth or lately did dwell, that he appear, or else that he shall be outlawed; see the Form of the Sessions. And if Proclamation be made five County-Days, and at the fifth County-Day the Defendant appear not, then the Coroner shall give Judgment that he shall be out of the Protection of our Lord the King, and out of the Aid of the Law. Let me give you in brief, why a Man is said to be outlawed and a Woman waived; viz. A Man is said to be outlawed, because he is sworn to the Law, and now for his Contumacy he is put from the Law, and said outlawed as it were *extra legem positus*; but a Woman is waived and not outlawed, because she was never sworn to the Law. *Finch. f. 16.*

Of Attorneys in this Court.

Attorneys may be made in this Court.

IT hath been objected, That no Attorney could legally practise in this Court, and that every Man ought to prosecute and defend his own Cause himself. But by the Statute of *Westminster 2. cap. 10.* every Man which oweth Suit to the County-Court, may make a general Attorney to prosecute and follow his Suits in all Pleas: And likewise in the Statute of *Merton, cap. 10. Quod quilibet liber homo qui Secllam debet ad Com. &c. libere possit facere Attorn. suum ad Secllam illas pro eo faciendas.* And an Attorney may do every Thing in the Name, and as the Act of him who gave him the Authority, as if he had done it himself: He is, *Aliorum negotiorum gestor*; for *Qui per alium facit, per seipsum facere videtur.* Likewise these Statutes following do institute Attorneys in the County-Court, viz. *6 E. 1. cap. 8. 20 H. 3. cap. 10. &c. F. N. B. 150.* and so is the Usage at this Day well known to all.

What they do.

Their Duty.

In their Practice they ought to be honest and just, according to their Office and Oath, not exciting Men to Suits, especially such as are foreign and illegal, nor for little Offences and

and small Debts, nor voluntarily (*argenti gratia*) delay their Clients, nor demand any Sums of Money for the Prosecution of any Action otherwise than is allowed by the Court: And they are to be skilful in drawing Pleadings, and diligent that their Clients suffer not through their Ignorance or Negligence.

Of Bailiffs.

A Bailiff is a Servant or Minister of the Law, and by Consequence a Servant to the Party at whose Suit he is to what. **His Duty.** *distrain the Goods of any; therefore he ought to be true, faithful and vigilant in lerying of Distresses: He ought not to detain the Attorney's Fee, nor the Warrant of Attorney, nor give it to any other Attorney, than those to whom the Defendant appoints it to be given; neither is he to be prevailed on with Bribes (as too many of them are). His Office is thus described by Fleta, Bailiwm esse debet in verbo verax, & in opere diligens, & fidelis, ut pro discreto apponatore cognitus, plebiscus & clericus, qui de communibus legibus pro tanto officio sufficiat, et se cognoscit. Et qui sit ita iustus, quod ob vindictam seu cupiditatem non querat versus aliquem. &c.* He is to be content with the Fees allowed him, which are certain and known (and herein after described particularly) being usually paid; and if he take an unreasonable Distress, an Action lies against him, or if he receive more than he ought, or commit any Error in the Execution of his Office contrary to the Tenor of his Precept, then he is to forfeit forty Shillings, and to be convicted thereof by the Examinations of the Justices of Peace. 14 E. 3. cap. 9. And the Sheriff by his Oath ought not to have any Bailiff, but such as he will answer for, and such as be true and sufficient Men in the County; and to make each Bailiff take an Oath in Court for the true Execution of his Office: And by the Statute of 27. Edw. 1. cap. 12. Every Bailiff of Franchises, Deputy, and Clerk of every Sheriff, and Under-Sheriff, and every other Person which have Authority, or take upon him to return any Inquest, Jury or Tales, or to intermeddle with the Execution of Process in any Court of Record, are, as well as the Under-Sheriff, to take the Oath mentioned in that Statute, for the due Execution of their Office, or forfeit 40 l.

What Actions may be brought in this Court.

Action is the Form of a Suit, given by Law to recover a Man's Right; or, *Actio nihil aliud est quam ius prosequendi*. **Action, what.** *Bras. l. 3. f. 98. in Fleta, l. 1. cap. 15.*

in Judicio quod sibi debetur. Therefore what Actions will hold in this Court take as follows :

8 Eliz.
Dyer 246. *Devant le Viscount sole, sans les Coroner, Pleas sont tenus per voy de Plaint, de personel Actions, que sont a recover ascun somme de souer, 40 s. Come Trespasse, det, detinue, covenant, assumpsit, ou tiel, mes nemy Replevin ou accompt, tout soit le somme cy poy, car ils ne sont a recover ascun somme, eins l'un est pur aver les biens destre deliver, l'auter pur accompt render. Et Trespasse ou tiel, ne gist icy de damages de sui 40 s. mes supersedeas gist al viconit sur divers plaints en le County-Court chescun desouh 40 s. quant tous sont pur un entiere det de 10 l. ou sur Action de covenant port la damages de sus 40 s. mes nul vi serra la suppose, car donque un supersedeas gist en que le breve dit que plea de trespasse. Quare vi & armis ne serra tenu in un inferior Court, eins solement devant la Roy ou autre Justices per son command. Finchley 116 cap. 15.*

Fitz. N. B.
289. d.

All Actions of Debt, either upon an Account made by the Parties, or other Sum of Money owing or due from one Man to another, whether by Writing, as Obligation, Bill, Covenant, or other Specialty; or without Writing, as an Arbitrament, Rent, Money lent, Retainer, Contracts, or the like.

All Actions of Detinue, Trover and Conversion, Deceit upon a Warranty, Non-Delivery, Nuisance, Case for scandalous Words, Case upon Assumpsit, and other Actions upon the Case; as for a Dog biting Cattle, abusing a Distress, Spoiling Goods, &c. Actions of Trespass, Assault and Battery, &c. Si ascun chose que concern frankement vient en question un plaint de Trespasses ou tiel le Court ne procede, come lou defendant avow pur Damage feasant, & Plainiffe justifie pur Common de Pasture: mes suit per brieve en le County-Court proceder: Et pur ceo en tiel Case sur plaint en le County-Court partie n' ad remede forsque brieve de Trespass vicontiel; & pur ceo viconit poet determiner lissue comment que frankement vient en debate.

Fitz. N. B.
70 s. b. Br.
Jurisd. 98.
14 H. 8.
156.

For further Information read Fitzherbert's *Natura Brevium*, which doth learnedly treat of the Nature of all Actions which lie in any Court of Judicature.

Within what Time Actions must be brought.

Stat. 21.
Jac. 16.

ALL Actions of Debt grounded upon any Lending or Contract, as Book-Debt without Especialty, and for Rents in Arrear, all Actions of Trespass, *Quare clausum fregit*, Trover, Detinue and Replevin, for taking away Goods and Chattles, Actions of Account, all Actions of the Case (except Actions for Slander) which shall be sued, must be commenced and brought within six Years after the Cause of such Action or Suit accrued.

If

If the Plaintiff be then of full Age, discovert, *compos mentis*, out of Prison, and in *England*; otherwise within such Time after he becomes so, &c. and not after.

All Actions of Trespass for Assault, Menace, Battery, Wounding and Imprisonment within four Years after the Cause of Action, and not after.

All Actions of the Case for scandalous Words within two Years next after the Words spoken, and not after.

Who may bring Actions, and who not.

Ideots, Madmen, or such as have *lucida intervalla*, such as are deaf or dumb, or any other Man, Woman or Child (except Persons disabled by Law) being wronged, may bring the proper Action appointed for Remedy in that Case; and all or any of these, wronging other, may be sued. And if an Ideot sue or be sued, he must do it in Person.

An Infant must sue by *Prochein amie*; and being sued, must defend by Guardian.

A Feme Covert cannot sue but with her Husband.

An outlawed Person is disabled to sue any Action against any Man in any Court of Law or Equity (yet as Executor he may sue, because it is not in his own Right, but in Trust for another) but any Man may sue him, by *Co. Litt.* 128. A Man that is attainted in a *Premunire*, may not sue in any Action. *Idem* 129. And a Man that is a Convict Recusant is disabled, so long as he so continues.

But note, All these Disabilities remain but during the Continuation of the same Impediment.

Of Pledges de prosequendo in this Court.

Pledges are now become obsolete in this Court, and were not formerly required, except of such Plaintiffs as lived out of the County and Jurisdiction of the Court: If the Plaintiff be nonsuited, or have a Verdict against him, and the Defendant have Judgment for Costs, and cannot levy them on the Plaintiff's Goods; his only Remedy is to bring an Action upon the Judgment by Writ out of one of the Courts at *Westminster*. See the Form of Declarations in this Case.

Of the Proceedings in this Court.

Because I would not have the Country and young Pra-
ctisers ignorant of the Proceedings in the Court, which
is

ACTIONS,
how to be
commenc'd

is the Life of the Practice: I thought it necessary to make an Abridgement of the Proceedings. The Plaintiff in the Action is first to take out a Summons returnable at the next County-Court, and then to appear by his Attorney; and if the Defendant do not appear, an Attachment or *Distingas* is to be made out upon Request.

And the first Thing the Defendant in any Action is to do, is to appear in Person, or by an Attorney in Court, to answer the Action and defend the Suit.

Appear-
ance.

Essoins.

The Defendant did formerly appear by Essoin in Actions of Debt only; and if he did not appear in Person, or by his Attorney at the next Court, Judgment was entred against him by *nil dicit*: But Defendants were essoined by the Bailiffs without their Direction or Privity, and so became Sufferers in the Action; for Kennedy whereof the Order of the 24th of July, 1654, hereafter mentioned, was made by the Judges of Assize at York; since which Time if any Essoin be received, it is only for Delay until the next Court; and then if the Defendant do not appear by his Attorney, further Process, as *Distingas* is made out against his Goods.

Declara-
tion, when
to be.

At the next Court Day after Process executed, and the Defendant appears, the Plaintiff is to file his Declaration, and shew his Cause of Action, or Matter of Complaint, and in what Manner the Action grew between the Parties, and at what Time and Place the Wrong was done, and shew the Damage he hath sustained by the Wrong done unto him, which upon the Plead is under 40s. Let the Attorneys be diligent in taking right and full Instructions from their Clients, and inform themselves of every Punillio which is materially incident to the Case, that so they may know what manner of Action is most proper to be brought on their Clients Behalf. And note, That in good Pleadings the Law requires four Things: 1. Verity. 2. Certainty. 3. Order.

And how.

4. Congruity. In some Cases, Manner and Form is chiefly to be look'd at, but in other some not altogether so material: As, if an Action of Debt be brought of the Sale of a Horse for five Pounds (where the Bargain was for two Horses) the Defendant pleads that he oweth him nothing in Manner and Form; the Jury ought to find for the Defendant, for that the Bargain was for two Horses for five Pounds; and Manner and Form there is material, and Parcel of the Charge; and so it is in many Cases where the Action varies from the Bargain or special Matter. But if an Action of the Case be brought by the Husband alone upon an *Assumpsit* to him by R. the Defendant saith, He did not assume in Manner and Form; and the Plaintiff gives in Evidence of an *Assumpsit* made to his Wife, and his Agreement to it afterwards: This is good, and Manner and Form is not material.

If

If an Action be brought before there is any Cause of Action, the Defendant may plead the general Issue; but if a Trespass was done the 4th Day of May, and the Plaintiff declareth the same to be done the 5th or the first Day of May, when no Trespass was committed, yet if upon Evidence it falleth out that the Trespass was done before the Action brought, it sufficeth. 19 H. 6. 47. 21 E. 4. 5. 21 E. 4. 66. And Littleton saith; That the Jury may find the Defendant guilty at another Day than the Plaintiff supposeth; for the Law of England respecteth more the Effect and Substance of the Matter than every Nicety of Form and Circumstance: *agrees Juri non sunt Jura.*

As to the Time.

Note, That in Actions of Debt upon *emisset* for Wares, for Money or other Things lent, upon an *Infimus compungent*, Action of Trespass, Battery, or upon the Case, &c. you are not tied to lay the certain Day, but you may lay it any Time after the Cause of Action accrued.

If an Action of the Case be brought upon an *assumpsit*, the Plaintiff must declare upon the whole Promise made, and not upon Part of it, else the Declaration is not good. 22 Car. B. R.

In *Assumpsit* must lay the whole Promise.

If there be Words in a Declaration, which have no Signification, or Words superfluous, the Words shall be adjudged to be void Words, and shall not hurt the Declaration: But the Declaration shall be taken as if these Words were left out of it; unless it be contrariant to the preceding Matter, and then it does; because the Plaintiff knows not what to answer to. Co. Litt. 23. Car. B. R. Pasch. 24 Car. B. R.

Surplusage.

A Declaration ought not to shew any Thing by Implication; it must be set forth expressly.

Certainty.

If the Plaintiff do alter his Declaration after the Defendant may alter his Plea; for by the Amendment of it, it may be so altered in Matter, that it may require a different Answer from what was formerly pleaded; and in that Case if he should not amend his Plea, he might be tricked for want of a good Plea. Pract. Reg. fol. 235.

Amendment.

A Declaration is sometimes called a Count, as Count in Debt; Kitch. 281. Count in Trespass, Brit. cap. 26. Count in Action of Trespass upon the Case for a Slander, Kitch. 251. But a Count is more properly used in real than personal Actions; and a Declaration more applied to personal than real. F. N. B. 18 a. 60. D. N. 71. a. 198 c. 217 a.

Count, what?

If after Process executed, the Defendant doth appear, and the next Court after gives a Rule to declare, and the Plaintiff doth not file his Declaration within the Time, then upon such Default the Plaintiff is nonsuited, and the Defendant may have his Costs, to be taxed by the County-Clerk; for which taxing there is nothing due to the County-Clerk, but he

Nonsuit.

Costs the com.

he receives two Shillings for entering the Judgment, and two more for the Execution, as in the Table of Fees.

Who shall
pay Costs.

In every Case where the Plaintiff may have Costs against the Defendant, there if the Plaintiff be nonsuit, or a Verdict pass against him, the Defendant shall have his Costs; as, in Trespass, Debt, Covenant by Specialty, or upon Contract, Actions upon the Case, or upon the Statute for personal Wrongs. 23 H. 8. cap. 15. Administrators or Executors shall not pay any Costs either upon Nonsuit or Verdict, because their Actions are brought upon Debts or Contracts not made between them and the Defendants. But if they bring Actions for Things done to themselves, as for the taking away of Goods from them, &c. and they be nonsuit, or Verdict pass against them, in this Case they shall pay Costs.

Who shall
not.

After the Plaintiff hath appeared, and Declaration filed, upon the Appearance of the Defendant, Imparance is to be entred: Imparance is when the Defendant being to answer the Suit or Action of the Plaintiff, desireth some Time of Respite to advise himself the better what he shall answer, being nothing else but a Continuance of a Cause till a further Day.

Impar-
ance.

Continu-
ance.

Now to demonstrate what the Word Continuance signifieth; it is, after a Suit is begun, and the Plaintiff hath declared, he must continue his Suit from Court-Day to Court-Day, or else the adverse Party may take Advantage of it; and this is called a Continuance, being but only a proroguing of a Suit from Time to Time, to keep it in being; and is by the Act or Order of Court, and sometimes by the Agreement of the Attorneys of both Parties.

Dies datus
Rule.

The Rule or *Dies datus* is, when further Day is given to the Plaintiff to put in his Declaration, or the Defendant to put in his Answer; the Time is usually the next Court-Day, and if Occasion, a Rule for fourteen Days more.

Plea.

The next Court after the filing of the Declaration, and Imparance given, the Defendant is to put in his Answer, which he pleadeth and saith in Bar, to avoid the Action of the Plaintiff, either by confessing and Avoidance, or denying the material Parts thereof; it must be legal, full and perfect; for a bad or insufficient Plea is in Law as no Plea.

How it
must be.

Replica-
tion.

If Issue be not joined upon the Answer, then the Plaintiff is to file his Replication to the Answer of the Defendant, which must affirm and pursue his Declaration.

Rejoinder.

Then the Defendant must put in his Rejoinder to the Plaintiff's Replication, which must pursue and confirm his Answer: For every Rejoinder ought to have these two Properties specially; that is, it ought to follow and enforce the Matter of the Bar, and also to be a sufficient Answer for the Replication.

If the Parties be not at Issue by reason of some new Matter disclosed in the Defendant's Rejoinder, if there be Cause the Plaintiff may surjoin to the said Rejoinder; but it falleth out very seldom. The Surrejoinder is a second Defence of the Plaintiff's Declaration, opposite to the Defendant's Rejoinder.

Surrejoinder.

Demurrer cometh of the Latin Word *demorari*, to abide, and therefore he who demurreth in Law, *moratur*, or *demoratur in Lege*. Whensoever the Counsel of the Parties are of Opinion that the Declaration or any Part of the Pleadings of the adverse Party is insufficient in Law, then he demurreth or abideth in Law, and referreth the same to the Judgment of the Court. Now there is no Demurrer in Law, but when it is joined; and therefore when a Demurrer is offered by the one Party, as is afore said, the adverse Party joineth with him, and thereupon the Demurrer is said to be joined, and then the Cause is by Counsel of both Sides argued in open Court.

Demurrer.

Joinder in Demurrer.

When the Declaration, Answer, Replication, &c. are defective in respect of some Circumstance of Time or Place, it may be remedied by Consent of the Court or Parties by a Motion to the Steward.

Amendment.

Non sum informatus, is a formal Answer of Course made by an Attorney, whereby he is deemed to leave his Client undefended, and Judgment passeth for the adverse Party.

Non sum informatus.

Nil dicit, is a failing to put in an Answer to the Plaintiff's Declaration by the Day assigned; which if the Defendant do, Judgment shall pass against him because he saith nothing to the contrary.

Nil dicit.

To an Action of Debt upon Specialty. *Non est factum*.

General

To an Action of Debt upon Contract; or upon a Statute, *Nil debet per patriam*.

General Issues.

To an Action of the Case upon an *Assumpsit*, *Non Assumpsit*.

To an Action of Trespass, Assault and Battery, or Slander, *Non culpabilis*.

To a Contract without Deed, the Plea is *solvit*, but to plead Payment to a single Bill without Acquittance is no Plea.

Other Pleas.

For an Obligation or other Matter in Writing may not be discharged by any Agreement by Word, but by Writing, *Unumquodque dissolvitur eo modo quo colligatur*. But to plead Payment at the Day to an Obligation with Condition, though no Acquittance by Writing, it is good; for the Condition is in Nature of a Defeazance to the Obligation.

To an Action of Debt on simple Contract, *Nil debet per patriam*, or *per legem*, or *solvit*.

If the Action be brought against an Executor, or Administrator, the ordinary Plea is, *Ne unque Executor*, or *Plene administravit*, &c.

If

If the Suit be upon a Deed or Contract without Deed, that the Defendant was *deins age* when he made the Deed or Contract.

If against a Woman, that she was Covert, that is to say, had an Husband when she made the Deed or Contract.

If upon an Arbitrament, that there was *nul tiel arbitrament* legally made, or that he hath performed the Award.

To an Action of Trespass, Damage Feasant, that the Beasts came in by Default of the Inclosure of the Plaintiff, or that he hath Title of Common there, &c.

To an Action brought for Rent, that there is no Rent in Arrear, &c.

To an Action of Detinue, *Non detinet*; a Release or Gift to him by the Plaintiff; or that he did tender the Thing sued for before Action brought; that the Plaintiff did deliver it to him as a Pledge for ten Shillings which he hath not paid.

To an Action of the Case for Slander, *Non culpabilis*; or justify the Words.

Case upon Warranty, *Non warrantavit*; or *Non culpabilis*.

Upon a Bond or Bill, plead Conditions performed *per minas*, *per durtas*, Imprisonment &c. upon a Demise, &c. *Non demisit*.

To trespass, *Non culpabilis*; an Arbitrament, Tender of Amends before Action brought, &c.

If divers Men commit a Trespass, and one of them makes a good Accord, this will discharge, and be a Bar to all the rest. 9 Co. 79.

Plea of
*liberum
tenementum*
ousts the
Jurisdiction
of the
Court.

If Freehold be pleaded this Court in that Case can proceed no further, if the Action be upon a Plaint; but if the Action of the Trespass be brought by Writ of *Justicies*, the Plaintiff may reply to the Plea of *liberum tenementum* and shew his Title, and the Court may proceed by the Opinion of some: And for this see Dalton 507. who says, By Writ of *Justicies*, the Sheriff may hear and determine of Trespass by an Inquest, according to the Order of Common Law; (and the Plea of Novel Assigment is well known) and afterwards although the Freehold shall come in question where the Suit is by *Justicies* in the County-Court, yet the Court shall not surcease, but may determine the Issue. Vide 14 H. 8. 6. Brook's Jurisdiction, 98. on *Franchement viendra in debate en Countie, la le mester procederat; mes contra, sil vient in Issue la sur plaint sans briefs*. And Finab 320. By Writ of Trespass the Sheriff may determine the Issue, though the Freehold come in Debate; but that is no Remedy in other Court-Barons.

Plea in
Trespass.

There are divers Pleas in Actions of Trespass, some of one Nature, and some of another; as, Justification, Excuse, Tender of Amends, &c.

General
Issue when
to be plead-
ed.

If the Defendant have Matter of Justification or Excuse Issue when to plead, he must be sure to plead it specially; for if he plead the

the General Issue, viz. *Non culpabilis*, it will be found against him.

Where the Defendant is not constrained to plead a special Plea, he may plead the General Issue proper for the Action brought, and give the special Matter in Evidence; for every Plea must be so framed, that it may give a full Answer to the Matters set forth in the Declaration, to wit, all such as are material to be answered unto.

General Issue when to be pleaded.

If one be sued upon an Obligation, he cannot be compelled to plead before he have *Oyer* of the Condition of the Obligation.

Oyer.

If an Obligation of an hundred Pounds be made with Condition for Payment of fifty Pounds at a Day, and at the Day the Obligor tenders the Money, and the Obligee refuseth the same, yet upon an Action of Debt upon the Obligation, if the Defendant plead the Tender and Refusal, he must also plead that he is yet ready to pay; and tender the same in Court; but if the Plaintiff will not then receive it, but take Issue upon the Tender, and the same be found against him, he hath lost his Money for ever. See the Plea of Tender.

Plea of Tender.

Every Plea must be offered to be proved true, by saying in the Plea, *Et hoc paratus est verificare*; and this is termed an Averment.

Averment in Pleas.

If Tender of Issue come on the Defendant's Part, the Form is, *Et de hoc petit se super patriam*.

General Issue, how to be joind.

If on the Plaintiff's Part, it is, *Et hoc petit quod inquiretur per patriam*.

If Issue be taken upon these Pleas, and a Jury thereupon warned to appear to try them, the Jury appearing, the Parties may have their Challenges.

Challenge of Jurors.

Challenge is said to be, where there is evident Favour, as Kindred, &c. the Juror of Alliance, Servant, bears Malice, or hath some Action against the Challenger; Juror, a Gossip of the Plaintiff; Juror, Master to the Plaintiff; the Juror eats at the Plaintiff's Cost, or takes Money for his Charges. If the Juror was chosen Arbitrator for one Party, but otherwise where he was chosen indifferent for them: If the Sheriff or Bailiff which make the Panel, is of the Plaintiff's Kindred: Those who have been Attaint of false Oath, or were seen on the Pillory, or against whom there was Judgment of Life or Member: Those who pretend to have some Right in the Thing demanded: The Juror outlawed, if the Record be shewn. Juror attaint of Conspiracy: The Sheriff

21 E. 4. f. 11.
11. 63.
20. 11.
2 H. 4. f. 16.
4. 2. f. 1.
2 H. 4. f. 14.
13 H. 4. fol. 14. 22. B.
2 Car. 177.
8 E. 3. f. 69.
3 H. 6. f. 24.
9 E. 4. f. 49.
Brit. f. 134.
11 H. 4. fo. 40. 33 H. being 6. f. 35.

18 H. 8. f. 2. being Plaintiff, it was allowed for a principal Challenge, that
 8 H. 6. f. 60. the Defendant was indebted to the Juror. If any one or
Pasch. 31 more of the Jury be returned at the Denomination of the
Eliz. Party, Plaintiff or Defendant, the whole Array shall be
 21 E. 4. 74. qualshed. If there be a Challenge for Cousinage, he that
 11 H. 4. c. 9. taketh the Challenge must shew how the Juror is Cousin. If
 22 Aff. 11. one within the Age of one and twenty Years be returned, it
Mir. cap. 3. is good Cause of Challenge.

Note.
 Challenge may be taken to the Panel made by the Sheriff after a *Tales* pray'd unto him. Estoppel binds not where it is in Force by Necessity.

A Writ of Error was brought in the Exchequer-Chamber, upon a Judgment given in the Exchequer between *Vicars* and *Langham*, and the Error assigned was, that the Sheriffs of *London* having returned a Jury, and they being called, and some not appearing, the Plaintiff prayed a *Tales*; and after the Jury made full by *Tales*, then the Plaintiff challenged the whole Panel by Exception to the Sheriff, whereupon the Jury was qualshed, and a new Jury impanelled by the Coroners, by which the Cause was tried. Now the Exception was, That the Plaintiff having prayed a *Tales* to the Sheriffs, and obtained it, was estopped to challenge the Panel for Exception to the Sheriffs. But it was resolved, that there could be no Challenge, neither to the Panel nor to the Poll, till first there were a full Jury; so that the Jury not appearing full, there was a Necessity to have a *Tales*, or else the Challenge could not have been taken; and so the Cause would have remained *pro defectu juratorum*, if the Plaintiff had not prayed it, for the Defendant would not; and so the Judgment was affirmed. And note, That in this Case there were none sworn before the Challenge, but only impanelled. But if the principal Panel do once appear full, then the Challenge must be taken to the Panel before any be sworn, otherwise it comes too late. Likewise note, That where the Plaintiff shews his *Venire fac.* to the Sheriff, he is not estopped thereby to challenge the Panel for Kindred or other Cause that was before the *Ven. fac.* And though a Juror may be challenged for a Cause happened since he was sworn, yet the Panel cannot be so; for no ill Affection of the Sheriff arising since the Juror sworn, can make the Jury suspected that was impanelled before. *Hob. Rep. 235. Vicars & Langham.*

Ven. fac.
 at the Election of the Plaintiff.

An Array made by the Predecessor of the Sheriff, was challenged and qualshed for Cousinage: It was resolved by the Justices, that it was at the Election of the Plaintiff to have a *Ven. fac.* to the Coroner, or else to the new Sheriff. *Mich. 3 E. Dyer 188. See 22 H. 6. 18 Eliz. 48.*

Having now brought the Jury to the Bar, (and that they prove all honest and indifferent Men) being sworn, bid them stand to the Bar.

If a full Jury do not appear, as many as make Default may be amerced.

What Witnesses are not sufficient to give in Evidence, and what are.

THE Word *Evidence* is of a different Signification, as signifying authentical Writings of Contracts; but here it is taken for Proof of a Matter in Question, and at Issue, by Testimony of Witnesses before a Jury; and according to the Evidence the Jury are to give in their Verdict according to their Oaths.

And to demonstrate who are insufficient, and may be excepted against, they are such as are infamous, or Persons attainted of Felony, or of a false Verdict, or of Conspiracy, or of Perjury, or in a *Premunire*, or of Forgery upon the Statute of 5 E. c. 14. and not upon the Statute of 1 H. 3. 3. and such as have had Judgment to lose their Ears, or stand on the Pillory, or have been stigmatiz'd or branded; and Infidels, Men not of sound Memory, or not of Discretion, or such as are interested in the Cause, and may have Benefit by the Thing in question, these are not competent Witnesses; and a Wife cannot be Witness for or against her Husband; but all others, though they be never so near of Kindred, Tenants, Servants, Masters, Counsellors or Attorneys, are allowed for good Witnesses, and these being required, must come in to give Evidence, or forfeit to the Party damnified so much as the Court shall award, and must give him Costs and Damages. See all the Cases concerning Evidence, in the *Law of Evidence*.

*Co. Litt. f. 61.
Plow. 8. 12.*

5 E. c. 9.

The Manner of keeping this Court.

THE Sheriff at the first Court after his Election and discharge of the old Sheriff, must read his Patent and Writ of Assistance, and nominate his Under-Sheriff, and County-Clerk, and by 1 & 2 P. & M. cap. 12. appoint four Deputies (at the least) of the Replevins for the Ease of the County.

Then enter the Style of the Court after this Manner :

Ebor. ff. Prima Cur. Com. J. B. Ar. vic. Com. predict. tent. apud Castrum Ebor. in Com. prad. die mercurii 8. die Januarii Anno Regni Domini nostri Willielmi Tertii Dei Gratia Anglia, Scotia, Francia & Hibernia, Regis fidei Defensoris, &c. decimo Annoq; Dom. 1698. coram A. B. & C. D. selectoribus ejusdem Curie.

Style of the Court.

Proclamation.

Then command the Bailiff to make three Proclamations
O yes, &c. and say,

All manner of Persons that have any Thing to do at this
County-Court of J. B. Esq; Sheriff of the County of York,
holden here this Day for this County of York, come forth and
give your Attendance.

Command the Bailiff to make Proclamation again, and
say :

All manner of Persons keep Silence, and hear the King's
Majesty's Writs of Exigent and Proclamation read.

Coroner.

A Coroner is to be then present to pronounce Judgment of
Outlawry against those that do not appear upon the Exigent
and Proclamation at the fifth County-Court.

Outlawry.

The Manner of the Coroner's pronouncing is thus, viz.
he takes the Exigents in his Hands, and says: Forasmuch as
A. B. C. D. and the rest of the Men Defendants named in
these Writs of Exigents, have been called five County-Days,
and have not rendered their Bodies to the Sheriff of this
County of York; therefore we pronounce them and every
of them outlawed.

The like for the Women-Defendants, using the Word *maired*
instead of *outlawed*.

Command the Bailiff the third Time to make Proclamation,
O yes, &c. and say,

Entry of
Plaintiff.

If any Man will enter any Plaints, let him come forth and
enter them with the County-Clerk.

Then enter your Plaint in this Manner :

A. B. *Queritur de C. D. de placito debiti 39 s. 11 d. or A. B.
queritur de C. D. de placito transgr. super Casum ad dampnum ipsius
A. triginta & novem solidorum.*

Proceed-
ings there-
on.

Then call the Plaintiff thus :

A. B. appear, or thou loiest thy Plaint ; three Times.

If he appear by his Attorney, then enter the Warrant of
Attorney, viz. the two first Letters of his Name, over the
Name of the Plaintiff.

Then call the Defendant.

C. D. appear and answer A. B. in an Action of Debt (or as
the Case is) or thou forfeitest thy Goods distrained, and
further Process will be awarded against thee.

If he appear, then enter his Appearance.

Note, The Plaintiff hath Time to declare until the next
Court-Day after the Defendant's Appearance, and the De-
fendant imparls until the next Court-Day after.

When the Defendant hath put in his Answer, if the Plain-
tiff join Issue, they may proceed to Trial the next Court-
Day,

Day, if they proceed not further by Replication, Rejoinder, Sur-rejoinder, Rebutter, Sur-rebutter.

If they be at Issue, send out a *Ventre facit* to summon the Jury.

Then enter on the Head of the Panel thus: *Jurantes inter A. B. querent. & C. D. def. de placito debiti.*

When they are brought to the Bar, bid the Bailiff make Proclamation and say,

You good Men that be impanelled to try the Issue between A. B. Plaintiff, and C. D. Defendant, answer to your Names, every Man upon the first Call, upon Pain and Peril that shall fall thereon.

If Twelve appear, then swear them one by one after this Manner:

You shall well and truly try this Issue joined between the Parties according to your Evidence. *So help you God.*

And as they are sworn, enter by every Man's Name, *Jur. Lic. juratus est.*

Being all sworn, bid them stand together to hear their Evidence.

Then swear the Witnesses.

The Evidence that you are to give to this Inquest, touching the Matter in Variance, shall be the Truth, the whole Truth, and nothing but the Truth. *So help you God.*

Then let the Jury depart from the Bar to agree upon their Verdict.

At their Return, bid the Bailiff call every one by their Names.

Then ask them if they be all agreed on their Verdict.

Jury. Yea.

Who shall say for you?

Jury. The Foreman.

Then call the Plaintiff: A. B. appear, or thou lovest thy Plaint, three Times. Then upon the Plaintiff's Appearance, ask the Jury,

Whether they do find for the Plaintiff or for the Defendant.

Jury. For the Plaintiff.

What Damages do you assess?

Jury. 2*d.*

Hearken to your Verdict; You say you find for the Plaintiff, and assess Damages, 2*d.* And Costs of Suit 2*s.* So you say all.

Jury. Yea.

Then bid the Plaintiff pay the Jury.

If the Verdict find the Matter incertainly, it is insufficient, and no Judgment ought to be given thereupon; as if an Executor plead *plene administravit*, and Issue is joined thereupon, and the Jury find that the Defendant hath Goods in

Verdict.

17 E. 3. 47.

18 E. 3. 48.

22 E. 3. 2.

18 E. 3. 36.

15 E. 3.

Judg. 58.

his Oe.

his Hands to be administred, but find not of what Value, this is incertain, and therefore insufficient.

Hil. 25.
Eliz. Mic.
28 & 29
Eliz. inter
Gomerfal
& Gomer-
fal, &c.

A Verdict that findeth Part of the Issue, and findeth nothing for the Residue, is insufficient for the whole, because they have not tried the whole Issue wherewith they were charged; but if the Jury give a Verdict of the whole Issue, and of more; that which is more is Surplusage, and shall not stay Judgment; for *utile per inutile non vitiatur*: But necessary Incidents required by the Law the Jury may find.

Adjourn-
ment of the
Court.

The Court being ended, adjourn the Court to another Day to be kept, commanding the Bailiff to make Proclamation, O ye, &c. and say,

All manner of Persons that have any more to do at this Court, let them come forth and they shall be heard, otherwise they and every one else, may depart hence for this Time, and keep their Hour here on Wednesday the fourth Day of August next, by ten of the Clock in the Forenoon.

Execution.

Now the Court being done, and the Defendant condemn'd by Verdict, then Judgment being entred, a *Fieri facias* shall be awarded to make levy of the Defendant's Goods, and thereupon his Goods shall be taken by Virtue thereof, and may be appraised and sold to satisfy the Plaintiff; and in case the Defendant hath no Goods, whereupon Levy may be made, then the Plaintiff must rest without Remedy in this Court, for it being no Court of Record, no *Capias* lies there; but an Action may be brought at Common Law upon the Judgment entred.

Of Distress.

Bailiff's
Continu-
ance in that
Office.

Considering the many Wrongs the Country hath sustained by griping Catchpoles, Bailiffs and corrupt Practisers, and how much the ignorant People are abused and deceived; yea, many Times (as the sad Experience of many will inform us) ruined and utterly undone by them, they being the sole Cause of those ignominious Aspersions cast upon the Court; the Advantage that it would produce is inexplorable, if the Statute of 1 H. 5. 4. were observed, which enacts, That Sheriff's Bailiff one Year shall not be in that Office three Years after, because by their continual being in that Office, they grow so crafty and cunning, that they are able to deceive the Sheriff, Under-Sheriff and County-Clerk, and ruin the whole County; therefore that the Country may not be altogether ignorant of their seeming authorized Actions, I will declare what and when they may distrain, and what and when they may not.

But

But first to declare what a Distress is.

A Distress is either said to be real (that is) when Land is distrained upon a *Grand Cape*, or *Petit Cape*, of which we have nothing to say here: Or it is said to be personal, where moveable Things are distrained; and this is that we are to speak unto: Therefore a Distress is where one doth take and distrain the Beasts, Cattle, and other Things of another Man, in some Ground or Place, for Debt, Rent, or other Duty behind, or for some Wrong or Damage done.

Distress,
what.

Bro. 146
Finche's.
Ley 135.
Co. Jus.
Litt. 97.

The Sheriff, nor his Officers, cannot break a Man's House in the Night-time to execute any Process, or to do any ministerial Act: For the Law giveth no Colour to break a Man's House by Night, unless an Outlawry, &c.

How, why,
and what
distrain-
able.

None can be distrained that are out of the Jurisdiction of the Court. *Marlb. cap. 2.*

No Distress can be made in the Night, but for Damage-Feasant.

The Bailiff may attach a Man by his Goods, citing him to appear, and answer such a Day, at such a Man's Suit, in such a Court, and for such a Cause: Or he may only give the Defendant Warning (in the Presence of two others) to appear such a Day, in such a Court, at such a Man's Suit, and it is sufficient: And if an Attachment be made, it must be of such Goods (of the Defendant's own proper Goods) as are Moveables, viz. by meer Chattels personal, which may be forfeited by Outlawry, and not Immoveables.

A Bailiff cannot sever Horses joined to a Cart.

Sheep may not be distrained, if there be a sufficient Distress besides.

No Man shall drive a Distress out of the County where it was taken, nor out of the Wapentake, Hundred or Lathe, except it be to a Pound-overt, within the same Shire, not above three Miles distant. *1 & 2 P. & M. cap. 12.*

Distress
where to
put.

A Distress may not be impounded in several Places, upon Pain of five Pounds, and treble Damages.

A Man cannot work Goods distrained, nor convert them to his own Use.

How used.

The Goods of any Man may be taken in any Place within the County, in another Man's House or Ground, as well as his own.

If a Bailiff distrain or attach the Horse of a Master, where the Plaint is against the Servant, Trespass lies for the Master against the Bailiff; for the Bailiff ought to take Notice at his Peril whose Goods he distrains or attaches. *13 H. 4. fol. 2. 14 H. 4. 24. 11 H. 4. 90. Dr. and St. 139.*

After Distress or Attachment made, if the Bailiff doth not return his Precept the next Court, Trespass lies against the Bailiff for the Defendant; and an Action of the Case lies

Distress.

against him for the Plaintiff, for not returning the Precept.
10 E. 4. f. 18, 3 H. 7. f. 3.

By Coke. If one take Beasts in the Name of a Distress, he ought to put them into an open Pound, for that he who is distrained may give to them Sustenance: But if he distrain dead Chattels, he may put them where he will; but if they spoil in his Default, he must answer for them. 19 E. 4. f. 2. b.

If Goods distrained be put in an open Pound, and they die, it is the Loss of the Owner; but if they be put in another Place, it is otherwise. 39 H. 8. *For Distress* 6. He that distrains Beasts may put them in a close House, if he will give them Meat; for the putting them in an open Pound, is but to the Intent that the Owner may give them Meat.

Where a Man distraineth Cattle Damage Feasant, or for Rent, or Service, and puts them into the common Pound, or into another Pound or Place, and he who hath Property in the Cattle, or other Person, taketh the Cattle out of the said Pound, and driveth them where he pleaseth, he who distrained them may have a Writ *de parco fructu*. *For. Ma. Dy.* 293. *E. 4. f. 18. 3 H. 7. f. 3.*

Whence
Distress
may be
taken.

A Man may not distrain for any Rent or Thing due for any Land, but upon the same Land that is charged therewith; but in Case where I come to distrain, and the other seeing my Purpose, chaseth the Beasts, or putteth the Thing out, to the Intent that I shall not take it for a Distress upon the Ground, then I may well pursue; and if I take it presently in the Highway, or in another's Ground, the taking is lawful as well as upon the same Land charged, to whomsoever the Properties of the Goods be.

The Remedy
for a
forcible
Distress.

If one distrain my Goods that are not distrainable by Law, I may have a general Action of Trespass, or an Action of the Case against him, at my Choice. *Co. 4. 94.*

The Distress must be reasonable, somewhat proportionable to the Thing or Cause for which it was taken; and yet if the Cause be so that a Man cannot take a Distress of less Value, and the Thing be after a Sort entire, as in the Distress of a Cart with its Carriage, or with the Horse or Oxen annexed to them, for twenty Shillings, though there be much Inequality, yet may it not be unreasonable. *Mart. 1. 3. 22 E. 4. 15. 20 E. 4. 3. 41 E. 3. 26.* But such Distresses as are either excessive for Magnitude, as if one take four Sheep for four Pence, or four Oxen for two Shillings, or the like; these are unlawful Distresses, for which the Bailiff or Distrainer shall be punished: *Excessus in re qualibet, in jure repræbatur*. Yet if he take a Horse or Ox for two Pence, where no other Distress is to be had, it is not excessive; but if there were a Sheep or other Goods somewhat proportionable to be taken, there it is excessive and punishable. *Co. 3 Part. Inst.*

107. 15 H. 3. *Marlb.* 4. Co. 11. 44. 4 H. 8. 4. *Rix. Na.*
Br. 174. 45 Ed. 3. 26.

If one distrain my Kine great with Calf, and by immoderate driving they lose their Calves, I may have an Action of the Case. *F. N. B.* 86.

If Goods be impounded in a close House, or secret Place, so that the Defendant cannot come to feed them, and the Goods do perish for want of Sustenance, the Distrainer must pay for them. 33 H. 8. Title *Distress*; 66.

If the Distrainer give the Cattle Meat in the Pound, he cannot compel the Owner of the Cattle to pay for this; for the Distrainer is not compelled by Law to give them Sustenance; and if they do agree after the Distress upon a Sum, yet this is no Excuse, but it is for the Deliverance; but if they do agree at the Time of the Distress taken, that he should give them Meat, and that he should have twenty Shillings (or a certain propounded Sum) for the same, this is a good Bargain. 21 E. 4. fol. 53.

An Action of Trespass was brought upon the Statute, that none should be distrained by his Cattle in the Plough so long as any other reasonable Distress may be had; and the Plaintiff declared the taking to be against the Statute, and did not specially shew that he had other Cattle to be distrained; yet it was adjudged good for the Defendant to allege this. 4 E. 3. and 18 E. 2.

What is
distrain-
able, what
not.

Stuff sent to the Taylor, Weaver, Fuller, Sheerman, Miller, &c. shall not be distrained, for these Officers are necessary for the Commonwealth; and the like Law is of and in a common Inn.

A Distress must be of a Thing whereof a valuable Property is in *quæ* Body; and therefore Dogs, Bucks, Hares, Does, Conies, Bees, and the like, that are *fera nature*, Apparel, Armour, cannot be distrained. Yet though it be of a valuable Property, as a Horse that a Man rideth upon, it cannot be distrained.

If a Man come into a common Inn, his Goods and Beasts shall not be distrained there, because then it would be prejudicial to the Commonwealth.

Also Goods and Chattels brought into a Fair or Market to be sold, shall not be distrained. *Per Cur. Mich.* 7 H. 7. f. 12. 10 H. 7. f. 21.

Windows, Doors, Tables fixed on a Post, a Furnace, Pales, Timber-Boards fixed on the Ground, Glass, Millstone, &c. cannot be distrained, nor forfeited by Outlawry: but if these are not used in a House, but Standers-by, then they may be distrained. *Mich.* 21 H. 7. fol. 13. *Passch.* 14 H. 8. fol. 35. *Trin.* 21 H. 7. fol. 27.

A Bailiff came to a House to distrain, the Doors being fast shut and barr'd, and with his Hand through a Crevice or Hole did shove the Bar, and open the Door, and did take out two Cows in the Name of a Distress; and because he did take a Distress in this Manner, it was adjudged the Distress to be wrongful. *Fitz. Abr. Distress*: 21.

No Goods shall be distrained but the proper Goods of the Party, and not Pledges, nor yet borrowed Goods. *95 H. 6. f. 25. per Moyle*, Justice. And it is not of Chattels real, as a Lease for Years, nor of Apparel. *7 H. 6. 9.*

A Distress made by the Servant of the Bailiff is good. *25 Aff. 687.*

If a Man distrain Cattel, and they of their own Accord come Home to the Owner, he who distrained them cannot take them again, by reason of the first Distress, except he doth freshly follow them; *per Danby* Justice, because of the Negligence of the Distrainer. *19 E. 4. f. 2.*

If a Man come to distrain for Damage Feasant, and see the Beasts in the Ground, and the Owner chaseth them out, of purpose, before the Distress taken, the Owner of the Ground cannot distrain them; and if he doth, the Owner of the Cattel may rescue them; for the Beasts must be Damage Feasant at the Time of the Distress. *16 E. 4. 10. Annot.*, 182.

A Horse cannot be distrained while the Owner thereof is riding upon him, or leading him; nor if he be tied at a Mill, and came thither with Grist; nor a Horse tied at a Man's Door, the Owner being gone into the House on some Business. *Pasch. 39 Eliz. C. B.* adjudged.

If a Beast be unruly in the Pound, as if like to leap over the Pound, it seems the Distrainer cannot justify the tying him to the Pound, nor the fettering him. *Bro. Trespas* 250. *27 Aff. p. 64.*

None shall distrain wrongfully, upon the Penalties provided upon the Statute of *Mart. Westm.* 1. 16. *3 B. 1.*

None shall procure any to distrain another, to make him appear at the County-Court, or any other inferior Court, on purpose to vex him, and put him to Charge and Trouble, on Pain to make Fine to the King, and to pay the Party grieved treble Damages. *Westm.* 1. 36. *13 E. 1.*

An Axe that is in a Man's Hand cutting off Wood, nor Goods that are impounded, and in the Custody of the Law, cannot be distrained for Rent, being distrained already, Damage Feasant.

By 2 *H. 8. M.* 'tis enacted, That where any Goods or Chattels shall be distrained for any Rent reserved, and due upon any Demise, Lease, or Contract whatsoever, and the Tenant or Owner of the Goods so distrained shall not within five Days next after such Distress taken, and Notice thereof (with the Cause of such Taking) left at the chief Mansion-house,

Goods distrain'd for Rent, how they may be sold.

house, or other most notorious Place on the Premises, charged with the Rent distrained for, replevy the same with sufficient Security to be given to the Sheriff according to Law, That then in such Case, after such Distress and Notice as aforesaid, and Expiration of the said five Days, the Person distraining shall and may, with the Sheriff or Under-Sheriff of the County, or with the Constable of the Hundred, Parish, or Place where such Distress shall be taken, (who are thereby required to be aiding and assisting therein) cause the Goods and Chattels so distrained to be appraised by two sworn Appraisers (whom such Sheriff, Under-Sheriff, or Constable are thereby impower'd to swear) to appraise the same truly according to the best of their Understandings; and after such Appraisement, shall and may lawfully sell the Goods and Chattels so distrained for the best Price that can be gotten for the same, towards Satisfaction of the Rent for which the said Goods and Chattels shall be distrained, and of the Charges of such Distress, Appraisement and Sale, leaving the Overplus (if any) in the Hands of the said Sheriff, Under-Sheriff or Constable, for the Owner's Use.

And that it shall and may be lawful to and for any Person or Persons having Rent arrear, and due upon any Demise, Lease or Contract, to seize and secure any Sheaves or Cocks of Corn, or Corn loose or in the Straw, or Hay lying or being in any Barn or Granary, or upon any Hovel, Stack or Rick, or otherwise upon any Part of the Land or Ground charged with such Rent, and to lock up or detain the same in the Place where the same shall be found, for or in the Nature of a Distress, until the same shall be replevied upon such Security to be given as aforesaid, and in Default of replevying the same as aforesaid within the Time aforesaid, to sell the same after such Appraisement thereof to be made: So as nevertheless such Corn, Grain or Hay so distrained as aforesaid, be not removed by the Person or Persons distraining to the Damage of the Owner thereof, out of the Place where the same shall be found und seised, but be kept there as impounded, until the same shall be replevied, or sold in Default of replevying the same within the Time aforesaid.

And 'tis further enacted, That upon any Pound-Breach, or Rescous of Goods or Chattels distrained for Rent, the Person or Persons grieved thereby, shall in a special Action upon the Case for the Wrong thereby sustained, recover his and their treble Damages and Costs of Suit against the Offender or Offenders in any such Rescous or Pound-Breach, any or either of them, or against the Owners of the Goods distrained, in Case the same be afterwards found to have come to his Use and Possession,

What may be distrained.

Damage for a Rescous.

But

Remedy
for unlaw-
fully di-
straining as
afore said.

But in Case any such Distress and Sale, as aforesaid, shall be made by Virtue or Colour of that Act, for Rent pretended to be arrear and due, where, in Truth, no Rent is arrear or due to the Person or Persons distraining, or to him or them in whose Name or Names, or Right, such Distress shall be taken as aforesaid; That then the Owner of such Goods or Chattels distrained and sold, as aforesaid, his Executors or Administrators, shall and may by Action of Trespass, or upon the Case, to be brought against the Person or Persons so distraining, any or either of them, his or their Executors or Administrators, recover double the Value of the Goods or Chattels so distrained and sold, together with full Costs of Suit.

When
Goods in
Execution
shall be
liable to
pay the
Rent
Arrear,

Per 8 *Annæ*, c. 16. 'tis further enacted, That no Goods or Chattels whatsoever lying or being in or upon any Messuage, Lands or Tenements which are or shall be leased for Life or Lives, Term of Years, at Will. or otherwise, shall be liable to be taken by Virtue of any Execution, or any Process whatsoever, unless the Party at whose Suit the said Execution is sued out, shall before the Removal of such Goods from off the said Premises, by Virtue of such Execution or such Extent, pay to the Landlord of the said Premises, or his Bailiff, all such Sum or Sums of Money as are or shall be due for Rent for the said Premises, at the Time of the taking such Goods or Chattels, by Virtue of such Execution.

When not.

Provided this said Arrears of Rent do not amount to more than one Year's Rent, and in Case the said Arrears shall exceed one Year's Rent, then the said Party at whose Suit such Execution is sued out, paying his said Landlord, or his Bailiff, one Year's Rent, may proceed to execute his Judgment as he might have done before the making of that Act; and the Sheriff or other Officer is thereby impowered or required to levy and pay to the Plaintiff as well the Money so paid for Rent as the Execution Money.

Fraudulent
Removal
of Goods.

And in Case any Lessee for Life or Lives, Term of Years, at Will, or otherwise, of Messuages, Lands or Tenements, upon the Demise whereof any Rents are or shall be reserved or made payable, shall fraudulently or clandestinely convey or carry off or from such demised Premises his Goods or Chattels, with Intent to prevent the Landlord or Lessor from distraining the same for Arrears of such Rent so reserved as aforesaid, it shall and may be lawful to and for such Lessor or Landlord, or any Person or Persons by him for that Purpose lawfully impowered, within the Space of five Days next ensuing such conveying away or carrying off such Goods or Chattels as aforesaid, to take and seize such Goods and Chattels where-ever the same shall be found, as a Distress for the said Arrears of such Rent, and the same to sell, or otherwise dispose of in such Manner as if the said Goods and Chat-

Chattels had actually been distrained by such Lessor or Landlord in and upon such demised Premises for such Arrears of Rent; any Law, Custom or Usage to the contrary notwithstanding.

But 'tis provided, That nothing in that Act contained shall extend, or be construed to extend, to impower such Lessor or Landlord to take or seize any Goods or Chattels as a Distress for Arrears of Rent, which shall be sold *bona fide*, and for a valuable Consideration, before such Seizure made; any Thing therein contained to the contrary notwithstanding.

Except sold
bona fide.

And it is enacted also, That it shall and may be lawful for any Person or Persons having any Rent in Arrear, or due upon any Lease or Demise for Live or Lives, to bring an Action or Actions of Debt for such Arrears of Rent, in the same Manner they might have done, in Case such Rent were reserved upon a Lease for Years.

Actions on
Lease for
Lives, how
to be
brought

And 'tis further enacted and declared, That all Distresses thereby impowered to be made as aforesaid, shall be liable to such Sales, and in such Manner, and the Moneys arising by such Sales to be distributed in like Manner as by the first mentioned Act is in that Behalf directed and appointed.

Subject as
in the for-
mer Act.

It is thereby further enacted, That it shall and may be lawful for any Person or Persons having any Rent in Arrear, or due, upon any Lease for Life or Lives, or for Years, or at Will, ended or determined, to distrain for such Arrears after the Determination of the said respective Leases, in the same Manner as they might have done, if such Lease or Leases had not been ended or determined.

Distress for
Rent when
the Term
is expired.

Provided that such Distress be made within the Space of six Calendar Months after the Determination of such Lease, and during the Continuance of such Landlord's Title or Interest, and during the Possession of the Tenant from whom such Arrear became due.

When,
how and
by whom
to be made.

And there is a Provision in the Act, That nothing contained therein shall extend, or be construed to extend, to let, hinder, or prejudice her Majesty, her Heirs or Successors, in the levying, recovering or seizing any Debts, Fines, Penalties or Forfeitures, in the same Manner as if that Act had never been made; any Thing therein contained to the contrary thereof in any wise notwithstanding.

Proviso for
the Queen,
&c.

Forasmuch as the ordinary Remedy for Arrearages of Rent is by Distress upon the Lands chargeable therewith, and yet nevertheless by Reason of the intricate and dilatory Proceedings upon Replevins, that Remedy is become ineffectual.

Reasons of
making
the Act.

For Remedy thereof, it is enacted by the King's most excellent Majesty, with the Advice and Assent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by Authority of the same, that whensoever any Plaintiff in Replevin shall be Nonsuit before Issue joined in

Proceed-
ings in
Replevin.

in any Suit of Replevin by Plaint or Writ lawfully returned, removed, or depending in any of the King's Courts at *Westminster*; That the Defendant making a Suggestion in Nature of an Avowry or Cognizance for such Rent, to ascertain the Court of the Cause of Distress, the Court upon his Prayer shall award a Writ to the Sheriff of the County where the Distress was taken, to enquire by the Oaths of twelve good and lawful Men of his Bailiwick, touching the Sum in Arrear at the Time of such Distress taken, and the Value of the Goods or Cattle distrained: And thereupon Notice of fifteen Days shall be given to the Plaintiff or his Attorney in Court, of the Sitting of such Enquiry; and thereupon the Sheriff shall enquire of the Truth of the Matters contained in such Writ, by the Oaths of 12 good and lawful Men of his County, and upon the Return of such Inquisition, the Defendant shall have Judgment to recover against the Plaintiff the Arrearages of such Rent, in Case the Goods or Cattle distrained shall amount unto that Value: And in Case they shall not amount to that Value, then so much as the Value of the said Goods and Cattle so distrained shall amount unto, together with his full Costs of Suit; and shall have Execution thereupon by *Fieri facias* or *Elegit*, or otherwise as the Law shall require. And in Case such Plaintiff shall be nonsuit after Cognizance or Avowry made, and Issue joined, or if the Verdict shall be given against such Plaintiff, then the Jurors that are impanelled or returned to enquire of such Issue, shall at the Prayer of the Defendant, enquire concerning the Sum of the Arrears, and the Value of the Goods or Cattle distrained; and thereupon the Avowant, or he that makes Cognizance, shall have Judgment for such Arrearages, or so much thereof as the Goods or Cattle distrained amount unto, together with his full Costs, and shall have Execution for the same by *Fieri facias* or *Elegit*, or otherwise, as the Law shall require.

Judgment.

And it is further enacted, That if Judgment in any of the Courts aforesaid be given upon Demurrer for the Avowant, or him that maketh Cognizance for any Rent, the Court shall, at the Prayer of the Defendant, award a Writ to enquire of the Value of such Distress, and upon the Return thereof, Judgment shall be given for the Avowant, or him that makes Cognizance as aforesaid, for the Arrears alledged to be behind in such Avowry or Cognizance, if the Goods or Cattle so distrained shall amount to that Value; and in Case they shall not amount to that Value, then for so much as the said Goods or Cattel so distrained amount unto, together with his full Costs of Suit, and shall have like Execution as aforesaid.

Second Distress lawful when the first is insufficient.

Provided always, and 'tis enacted, That in all Cases aforesaid, where the Value of the Cattle distrained as aforesaid shall not be found to be the full Value of the Arrears distrained for, that the Party to whom such Arrears were due, his Executors

cutors

cutors or Administrators, may from Time to Time distrain again for the Residue of the laid Arrears. 17 Car. 2. cap. 7. This Act was made to extend to Wales, and Counties-Palatine, per 19 Car. 2.

If one distrain my Cattle or Goods, without any Cause or Colour, that is not good and just; or if a Man having distrained my Goods, will not tell me, requiring it, and offering to give Satisfaction, for what Cause he distrained them; or if having Cause to distrain, he do distrain Beasts not distrainable, as Beasts of the Plough, or Sheep; or if having distrained Beasts distrainable, he afterward abuse them, as if being a Horse or an Ox, he work it, or being unruly he fetter it, or lay it so as it be thereby hurt; or if he put the Distress in an unknown Place, that I cannot tell how to come at it to feed it; or if he take them out of the County, and put them into a Pound in another County; or if he distrain them in a Place not distrainable: In all these Cases, I may have an Action of Trespass against him. Co. 8. 147. Doct. & St. 112. F. N. B. 45.

Where
Trespass
lies for un-
lawful
Distress.

What Goods may be taken upon Execution.

Execution is a judicial Precept, issuing out after Judgment, properly called a *Fieri facias*, or *Levari facias*, and lieth where a Man hath recovered in any Action lying in this Court, either by Default or Verdict, then he that hath recovered may have this Precept, commanding the Bailiff to levy the Moneys (so recovered) of the Goods and Chattels of the Defendant, and to bring it into the Court, that the Party Plaintiff may have it.

Execution,
what.

Where it
lies.

The Bailiff may (by Virtue of this Precept or Warrant after Judgment) distrain the Defendant's Goods, and detain the Distress in his Hands in Safeguard, till the Defendant hath satisfied the Plaintiff of the Condemnation. 22 Aff. 27. F. N. B. 165. And 4. H. 6. f. 17. Action.

The Bailiff upon this Precept is to do his utmost Endeavour to levy the Money upon the Goods and Chattels of the Defendant, and for that Purpose to enquire and search if he can find any Goods and Chattels of his, whereof Execution may be made; and it will be Wisdom in the Plaintiff to make a diligent Search, to see if he can find out any Thing to be taken hold of; and if he can discover any, to direct the Bailiff to it, who *ex officio* is to take it, and sell it; and if he cannot sell it, he is to return it so; and thereupon a Precept called a *Venditioni exponas* shall be sent to the Bailiff, to force him to sell it and pay the Plaintiff.

The Bai-
liff's Duty.

Goods taken in Execution must be praised, and Execution made of them. 27 Aff. 72.

Where

Where
excusable,
tho' the
Execution
is wrong-
ful.

Where erroneous Judgment is given, the Officer which doth the Execution is excused, 22 *Ass.* 64. But on the contrary, if Judgment be given, that is void: For where Judgment and Execution is of a Thing whereof they have no Jurisdiction, there Trespass lies against the Officer for executing it; but if Judgment be there but erroneous, and so void, false Judgment lies, and no Trespass against the Officers. *Plowd. Com.* 304.

If after Judgment a Man doth sell his Goods, to defraud me of my Execution, and nevertheless taketh the Profits of them; if it be so found, I may have Execution of the Goods sold by Fraud. 43 *E. 3. f. 2.* 22 *Ass.* 72. 50 *E. 3.*

If the Bailiff hath a *Fieri facias* against a Man, and before Execution he payeth the Money, in this Case he cannot do Execution after; if he do, an Action of Trespass lieth against him. *B. R. Poph.* 12 *Car.*

If the Sheriff open or break any House to do Execution at the Suit of a common Person, the Execution is good; but the Party whose House is broken, may have an Action of Trespass against him for the breaking of the House. *Co.* 5. 93.

If the Sheriff levy Money upon an Execution, and giveth it to the Plaintiff, though he never make any Return to the Court, it is good enough. *Co.* 5. 90. 4. 67. 11. 40. 20 *H.* 6. 24. 4.

If a Man hath a Judgment in this Court against the Plaintiff or the Defendant, and the Execution is deferred in Favour of him, the Party grieved may have a Writ *de Executione Judicii* from above to hasten it. *F. N. B.* 120.

This Writ *de Executione Judicii* is directed to the Sheriff in whose County the Execution ought to be done; and if he will not do Execution, the Complainant shall have an *Alias*, and a *Pluries*, with this Clause in the Writ of *Pluries* (*vel nobis causam signific. &c.*) And if he do not Execution upon this Writ, or return not some reasonable Cause wherefore he delays the Execution, the Party shall have an Attachment against the Sheriff returnable into the King's Bench or Common Pleas, and must be directed to the Coroners (returnable as abovesaid) to answer, &c.

Goods pawned shall not be taken upon Execution for the Debt of him who pawned them, during the Time they are pawned. 24 *H.* 8. *Plowd.* 28. and 4. *E.* 6. *Distress* 75.

By *Fieri facias* (or *Levari facias*) the Bailiff cannot break the Door or Chest to take Goods in Execution: For if he do, Trespass lies against him for the breaking only, and not for taking the Goods in Execution. 18 *E.* 4. *f.* 4. and 13 *E.* 4. *f.* 9. by *Choke*, notwithstanding 8 *E.* 2. Title *Executors*, 152. to the contrary.

If a Man letteth to farm by the Year, Oxen or Cattle, and after the Lessor is condemned in an Action of Debt, these Cattle and Oxen demised, during the Term, cannot nor shall not be taken in Execution for this Debt. 22 E. 4. f. 10.

A Bailiff cannot pull the Latch to open the Door, if it be shut, to make a Distress. Co. 5. 91, 93. Dyer 97. 224. But if the Out-door of the House be open, the Sheriff may go into the House and take any Thing there liable to Execution; and being come in at the open Door, it seems he may break open any one of the inner Doors. 18 E. 4. 4 Co. 5, 90. Co. 4. 74.

Of the Replevin.

Cattle being distrained for Rent, Damage Feasant, &c. Replevin, the Owner of the Cattle must go to the County-Clerk (for some one of the Deputies appointed in the County for the granting out Replevins) to have a Replevin directed to the Bailiffs to replevy them; and the Party must be bound in an Obligation to the Sheriff, to prosecute his Action against him or them that did take the Cattle, and to make Return of the same Cattle to the Distrainer, if he by Justification or Avowry do recover. And if he pursue it not, or if it be found or judged against him, then he that took the Distress, shall have again the Distress, and that is called *Retorn. Averiorum*, and he shall have in such a Case a Writ from above, de *Retorno habendo*. Ret. aver.

In appeareth by the Words of the Statute of Marl. cap. 21. *Quod viccomes post querementiam inde sibi factam, ea sine impedimento vel contradictione ejus, qui dicta averia ceperit, deliberare possit*: By which Words it appears, that a Plaint must first be entred in the County-Court, before the Sheriff can make a Replevin. But yet upon the said Act, the Sheriff may enter a Plaint any Day, and out of Court; for that it would be very inconvenient for the Owner to forbear his Cattle till the County-Court Day. Co. 1 pari Inst. f. 145. Replevin by Plaint.

This Replevin may be removed out of the County into the King's Bench or Common Pleas, by a Writ of *Recordari fac. loquelam*. Recordari.

If the Goods cannot be taken by the first Replevin, then Process issues forth an *Alias*, then a *Pluries*, then a *Toties quoties*; and Replevin. If none of these will do, then a *Withernam*.

The suing of a *Withernam* is after this Manner :

If the Bailiff return at the next County, upon the *Toties quoties*, that he cannot replevy the Cattle because they are eloined, or that he cannot have View of the Cattle, then the Sheriff ought to make Enquiry if it be true which is returned; and if it be so found out, he shall make a Precept to the

Bailiff in the Nature of a *Withernam*, to take as many Cattle of the other Party; and if the Bailiff upon the *Withernam* thus awarded return, that the other Party hath not any Thing, &c. he shall have an *Alias* and *Pluries*, and so *ad infinitum*, and hath no other Remedy in this Court.

What Value to be taken in *Withernam*.

Note, That Cattle taken in *Withernam ad valentiam*, that is, to the Value of the Cattle that were first distrained, (and so detained, that the Sheriff cannot execute the Replevin brought for them) is to be understood not of the Number of the Cattle first distrained, but according to their full Worth and Value. For otherwise he that bringeth the Replevin or *Withernam* will be deprived of his Satisfaction he ought to have in case the Distress were not lawfully taken.

What Force the Sheriff may use to make Replevin.

But now to return again to the Replevin: If the Thing distrained be put by the Distrainer in a Place where the Sheriff cannot come to them to make a Replevin, he may take the *Possessio Comitatus*, viz. the Power of the County, and after Demand of the Chattels, he may beat down the Door or Place where they are, to take them; and the Owner of the Goods shall recover double for his Loss whatever it be.

A Parol Precept is good.

The Sheriff upon the Complaint made to him upon taking of Cattle, may command his Bailiff by Word to make a Replevin of them, and it is as good as though he had made his Precept to the Bailiff. *Fitz. 6. 9.*

Replevier must have Property.

He that hath the Replevin must have either a general or special Property in the Thing; as of Goods pledged, or the like; and it must be in him at the Time of the taking, or otherwise he cannot have or maintain the Replevin for them.

No Joinder in Replevin.

Divers Mens Cattle being taken, they may not join in one Replevin, but must have several Replevins.

Certainty.

A Replevin ought to be certain in setting forth the Number and Kinds of the Cattle distrained, otherwise it is not good; because if it be not certain, the Sheriff cannot tell how to make Deliverance of the Cattle, because he knows not particularly what the Cattle are that are distrained. *Fitz. 23 Car. B. R.*

Of more than was distrained.

If a Man taketh and impoundeth Goods, a Replevin may be of more Cattle than were impounded; For if a Man distrain Cows or Ews, &c. and they have in that Pound Calves or Lambs, the Plaintiff shall have a Replevin for them all: And by *Littleton* it was adjudged, *Mich. 8. E. 3.* That if any Man distraineth and impoundeth a Sow great with Pigs in the Pound, the Owner shall have a Replevin for the Sow and Pigs.

Replevin lies notwithstanding grant that they shall be irrepleviable.

If a Man by his Deed grant a Rent with Clause of Distress, and grant further, that he shall keep the Goods distrained against Gages and Pledges until the Rent be paid, yet shall the Sheriff replevy the Goods distrained; for it is against the Nature of such a Distress to be irrepleviable, and by such an Invention

5 Co. Inst. 1 to Vol 4 p. 6. born 11 yb 9 1/2 a 1903

On ~~liberty~~
tenement ~~was~~
pleaded.

Recordari
facias lo-
quelam
I shall be
brought.

Judgment
in Reple-
vin.

Place must
be alledged
in Reple-
vin.

D 2

not

Replevin. Process.

not Witnesses to prove the same, and so by this Means the Plaintiff should be at a Mischief, and delayed in his Suit; whereas a Replevin is a speedy Remedy to have his Cattle again, which perhaps are his Plough-Cattle. And in this Case, upon the Matter, the Avowant is the Actor, and he best knows where he took the Cattle. And it is no Reason that the Plaintiff missing the Place, not being Matter of Substance, should be prejudiced in his Suit. Divers Books were alledged, where the taking is alledged to be in a Town, without saying *in quodam loco*, and yet good. 4 E. 3. 13. 14 E. 3. 14. 21 H. 7. 23. 9 H. 4. in a *Homine replegiando* 13. The Case was adjourned. Trin. 10 Jac. in C. B. *Read and Hawes's Cases*; Godb. 186. See Hob. 16. the same Cases; 3 Cro. 896. adjudged to be ill without the certain Place.

Of the Process of this Court.

Either
original or
judicial.

THE Process of the Court are, either original, issuing out before Judgment, or judicial, issuing out after Judgment. Original is a County-Warrant, Attachment or *Distingas*, &c. Judicial Process is only a *Fieri facias* or *Levari facias*, or Execution directed to the Bailiff to levy the Debt, Damages or Costs of Suit recovered of the Goods of the Defendant, or of the Plaintiff, if he be nonsuited.

The first Process, viz. a County-Warrant is a Precept issuing out for a Debt or Damage under forty Shillings.

If the Defendant do not appear the next Court after the Summons executed, then farther Process, viz. an Attachment against Goods (in some Places instead of an Attachment a *Distingas*) issueth out to cause the Defendant to appear, and if he appear not on the first Attachment, you may have an *Alias*, *Pluries*, and so *ad infinitum*, until he appear.

It has been a Custom in *Yorkshire*, Time out of Mind, in Actions of Debt to file a Declaration, according to the Cause of Action, and to sue out a *Venditioni exponas* after the third Attachment, to sell such Goods as have been taken upon that, and the two former Attachments, for this Reason, that when the Defendant absconds, or will not appear to the Action, the Plaintiff may receive the Value of the Goods distrained towards Satisfaction of his Debt and Costs, else they would remain in the Bailiff's Hands, and the Plaintiff be without Remedy in this Court.

Of the Writ of Justicies.

THIS Writ issueth out of the Chancery, directed to the Sheriff, giving him Power to hold Plea in this Court in
Actions

Actions of forty Shillings, or above; and though it be directed to the Sheriff, yet are the Suitors Judges. It is called a *Justicies*, because it is a Commission (and no Original) to the Sheriff to do a Man Justice and Right; and though it be quod *Justicies B.* yet the Sheriff is not Judge therein, but the Suitors, and a Writ of false Judgment lieth upon their erroneous Judgment; and the Writ of *Justicies* requires no Return.

3 H. 6. 54.
7 E. 4. Br.
Just. 3.

Plusieurs actions d'un nature peyent estre ioynes en un Justicies ove several Precepts, & le Vicount Oyer & Determiner eux per enqueste selonque order del Common ley. Mes ces Justicies ne alter le nature del Court; Car les suitors sont la Judges, les pleas ne sont de Record, coment que soit per brieve de faux Judgment gift, &c.

Fitz. N. B.
86. a.

Of a Tolt.

TOLT comes from the Latin Word *Tollo*, viz. to take away: It is a Precept by which a Cause depending in a Wapentake or Hundred-Court, or other inferior Court-Baron holden by any Lord of a Manor, may be from thence removed, into this Court; and it supercedes all Proceedings in Court-Barons, until a Precept out of the County-Court so proceed. *Quare*, If an Action lies not against the Steward, if he will not obey the *Tolt*: His Fee is two Shillings for the Allowance of it.

Original Processes, and other Precepts.

(1.) **A**. P. Armiger Vic. Com. præd. omnibus & singulis ballivis meis in & per totum Com. præd. & eor. deputat. conjunct. & divisim salutem, Mando quod summon. A. B. ita quod sit ad proximam Curiam Com. mei præd. tenend. apud Castrum Ebor. in Com. præd. die Mercurii scilicet xx. die Junii ad respondend. C. D. de placito debiti (vel de placito transgr. super casum) Et hoc, &c. dat. sub sigillo officii mei xviii die Maii Anno Regni Dom. Caroli Secundi Dei Gratia, Angliæ, Scotiæ, Franciæ & Hiberniæ Regis fidei defens. &c. tricesimo quarto.

Com. Ebor.
ff.

Summons.

Per J. W. Cler. Com.

(2.) ff. A. P. Armiger Vic. Com. præd. omnibus & singulis ballivis meis in & per totum Com. præd. & eor. Deputat. conjunct. & divisim salutem Mando quod attach. (seu Distringas) A. B. per bona & catalla sua ita quod sit ad proximam Curiam Com. præd. tenend. apud Castrum Ebor. in Com. prædicto die Mercurii scilicet quinto die J. ad respondend. C. D. de placito debiti & hoc, &c. dat. sub sigillo officii mei (die & anno) &c.

Attach-
ment vel
Distringas.

*Duces
secum, and
second or
third At-
tachment
or Distrin-
gus.*

(3.) ff. G. C. Baronettus Vic. Com. præd. omnibus & singulis ballivis meis in & per totum Com. præd. & eor. deputat. salutem Vobis & cuilibet vestrum mando quod sticatis vobiscum & habeatis apud Castrum Ebor. ad proximam Curiam Com. mei ibidem tenend. die Mercurii x die J. prox. futur. omnia bona & catalla A. B. quæ vos nuper per alias præcepti mei vobis in ea parte prius direct. distrinxistis ad Sessam C. D. in placito debiti & quod ulterius distringatis (seu attach.) præd. A. B. per alia bona & catalla sua in Com. præd. ita quod sit ad prox. Curiam Com. mei præd. tenend. apud Castrum Ebor. præd. die Mercurii &c. ad respondend. præfato C. D. in præd. placito debiti. Et habeatis ibi hoc præceptum dat. sub sigillo officii, &c.

*Summons
upon a
Writ of
Justicies.*

(4.) ff. A. P. Armiger vic. Com. præd. omnibus & singulis ballivis meis in & per totum Com. præd. & eor. deputat. necnon ballivo Libertatis de Richmond & Richmondshire in eod. Com. & ejus deputat. conjunct. & divisim salutem. Virtute brevis Domini Regis mihi directi, vobis & cuilibet vestrum mando quod summon. A. B. ita quod sit ad prox. Cur. Com. mei præd. tenend. apud Castrum Ebor. die Mercurii quinto die M. ad respondend. B. F. de placito transgressionis Et qualiter hoc præceptum fuerit execut. ad dictam proximam Cur. mihi constare fac. dat. sub sigillo officii mei, &c.

*Attach-
ment or
Distringas
upon a
Writ of
Justicies.*

(5.) ff. G. M. Armiger vic. &c. salutem Virtute brevis Dom. Regis mihi directi, vobis & cuilibet vestrum mando quod attach. (seu distringatis) A. B. per bona & catalla sua ita quod sit ad proximam Curiam, &c. (ut supra.)

*A Venditi-
oni exponas.*

(6.) G. C. Baronettus vic. &c. salutem Vobis & cuilibet vestrum mando quod unum juvenem Anglice a *Steer*. appreciat. ad viginti solidos de bonis & catallis A. B. venditioni expon. Et quod idem juvenis attachiat. fuit ad Sessam C. D. in placito debiti super demand. triginta & novem solidorum Et ad Cur. rent. pro Com. præd. apud Castrum Ebor. xx die Septembris instantis præd. A. B. licet secundum consuetudinem Cur. præd. solemniter exactus fuit non comperuit, per quod secundum consuetudinem ejusdem Curia a tempore cuius contrarii memoria hominum non existit, idem juvenis forisfact. est. Et quod denarios illos habeatis ad proximam Curiam Com. mei prædicti tenend. apud Castrum Ebor. die Mercurii x die O. proximi futur. ad satisfaciend. præfato C. D. de debito præd. & qualiter hoc præceptum, &c. ut supra.

A Replevin.

(7.) W. R. Baronettus Vic. &c. omnibus & singulis ballivis meis, &c. salutem Quia J. B. mihi dedit sufficientem securitatem tam de clamore suo prosequend. quam de averiis suis retorn.

fit return. inde adjudicatur ideo ex parte Dom. Regis & virtute officii mei Vic. Com. præd. vobis & cuilibet vestrum mando quod replegiari fac. eidem J. B. duas vaccas quas H. J. cepit & eas injuste detinet ut dicitur Et summon. per bonos summon. quod sit ad proximam Curiam Com. mei præd. tenend. apud Castrum Ebor. die Mercurii, &c. ad respondend. præfato J. B. de placito captionis & injuste detentionis Averior. prædictor. Et qualiter hoc præceptum, &c. ut supra.

Provided, That if the Goods and Cattle above-mentioned be taken for the Revenue of Excise, or for Fee-farm Rents, Taxes or Assessments, or in any Case wherein by Law the same are not repleviable, this Replevin is to be of none Effect, and not to be obeyed nor executed.

J. W. Cler. Com.

(8.) W. R. Baronettus Vic. Sec. salutem. Cum nuper vobis & cuilibet vestrum mandavi quod attach. A. B. per bona & catalla sua ita quod sit ad Cur. Com. mei præd. tenend. apud Castrum Ebor. die Mercurii, &c. ad respond. C. D. de placito debiti quia tamen idem A. B. comperuit per Johannem Smith Attornatum suum ad respondend. præd. C. D. in placito suo præd. idem vobis & cuilibet vestrum mando quod de executione præcepti prædicti supramentionat. omnino supersed. Et si aliqua bona seu catalla dicti A. B. virtute præcepti illius cepistis seu distrinxistis tunc ea sine dilatione eidem A. B. redeliberari fac. Dat. apud Castrum Ebor. præd. sub sigillo officii mei, &c.

A Super-
seas
upon a
Distringas
or Attach-
ment.

(9.) T. R. Armiger Vic. Com. præd. fenescallo necnon balivo Curie Wapentagii (five Hundred) de Harthill, Quia dat. est mihi intelligi quod estis favorabiles & non equales in quadam loquela in Curia Wapent. (five Hundred) præd. penden. inter J. B. quer. & R. S. Defendentem, Ideo ex parte Domini Regis & virtute officii mei præd. mando vobis quod tolletis loquelam prædictam quæ est in Cur. prædicta inter partes prædictas penden. & eandem loquelam habeatis ad proximam Curiam Com. mei præd. tenend. apud Castrum Ebor. die Mercurii xvi die A. prox. futuro, & partibus prædictis eundem diem præfigatis quod sint ad Curiam illam: Et quod ab omni ulteriori prosecutione in loquela prædicta desistatis quousque in Cur. Com. mei præd. aliter in hac parte ordinat. foret. Et qualiter hoc præcept. fuit execut. &c.

A Tolr.

(10.) Apud Cur. Baron. tent. apud W. infra Hundred. de H. præd. die Mercurii ultimo die Julii Anno Regni Regis Caroli &c. tempore J. B. Armig. Vic. Comit. præd.

Hundred
de H. ff.
Return.
placitorum.

*Duces
secum, and
second or
third At-
tachment
or Distrin-
gas.*

(3.) ff. G. C. Baronettus Vic. Com. præd. omnibus & singulis ballivis meis in & per totum Com. præd. & eor. deputat. salutem Vobis & cuilibet vestrum mando quod dicatis vobiscum & habeatis apud Castrum Ebor. ad proximam Curiam Com. mei ibidem tenend. die Mercurii x die J. prox. futur. omnia bona & catal. A. B. quæ vos nuper per alias præcepti mei vobis in ea parte prius direct. distrinxistis ad Sectam C. D. in placito debiti & quod ulterius distringatis (seu attach.) præd. A. B. per alia bona & catala sua in Com. præd. ita quod sit ad prox. Curiam Com. mei præd. tenend. apud Castrum Ebor. præd. die Mercurii &c. ad respondend. præfato C. D. in præd. placito debiti. Et habeatis ibi hoc præceptum dat. sub sigillo of. ficii, &c.

*Summons
upon a
Writ of
Justicies.*

(4.) ff. A. P. Armiger vic. Com. præd. omnibus & singulis ballivis meis in & per totum Com. præd. & eor. deputat. necnon ballivo Libertatis de Richmond & Richmondshire in eod. Com. & ejus deputat. conjuncti & divisi salutem. Virtute brevis Domini Regis mihi directi, vobis & cuilibet vestrum mando quod summon. A. B. ita quod sit ad prox. Cur. Com. mei præd. tenend. apud Castrum Ebor. die Mercurii quinto die M. ad respondend. E. F. de placito transgressionis Eo qualiter hoc præceptum fuerit execut. ad dictam proximam Cur. mihi constare fac. dat. sub sigillo officii mei, &c.

*Attach-
ment or
Distringas
upon a
Writ of
Justicies.*

(5.) ff. G. M. Armiger vic. &c. salutem Virtute brevis Dom. Regis mihi directi, vobis & cuilibet vestrum mando quod attach. (seu distringatis) A. B. per bona & catala sua ita quod sit ad proximam Curiam, &c. (ut supra.)

*A Venditi-
oni exponas.*

(6.) G. C. Baronettus vic. &c. salutem Vobis & cuilibet vestrum mando quod unum juvencom Anglice a *ster.* appreciat. ad viginti solidos de bonis & catalis A. B. venditioni expon. Eo quod idem juvencom attachiat. fuit ad Sectam C. D. in placito debiti super demand. triginta & novem solidorum Et ad Cur. tent. pro Com. præd. apud Castrum Ebor. xx die Septembris instantis præd. A. B. licet secundum consuetudinem Cur. præd. solemniter exactus fuit non comperuit, per quod secundum consuetudinem ejusdem Curie a tempore cujus contrarii memoria hominum non existit, idem juvencom forisfact. est. Et quod denarios illos habeatis ad proximam Curiam Com. mei prædicti tenend. apud Castrum Ebor. die Mercurii x die O. proximi futur. ad satisfaciend. præfato C. D. de debito præd. & qualiter hoc præceptum, &c. ut supra.

A Replevin.

(7.) W. R. Baronettus Vic. &c. omnibus & singulis ballivis meis, &c. salutem Quia J. B. mihi dedit sufficientem securitatem tam de clamore suo prosequend. quam de averiis suis retorn.

si return. inde adjudicatur ideo ex parte Dom. Regis & virtute officii mei Vic. Com. præd. vobis & cuilibet vestrum mando quod replegiari fac. eidem J. B. duas vaccas quas H. J. cepit & eas injuste detinet ut dicitur Et summon. per bonos summon. quod sit ad proximam Curiam Com. mei præd. tenend. apud Castrum Ebor. die Mercurii, &c. ad respondend. præfato J. B. de placito captionis & injuste detentionis Averior. prædictor. Et qualiter hoc præceptum, &c. ut supra.

Provided, That if the Goods and Cattle above-mentioned be taken for the Revenue of Excise, or for Fee-farm Rents, Taxes or Assessments, or in any Case wherein by Law the same are not repleviable, this Replevin is to be of none Effect, and not to be obeyed nor executed.

J. W. Cler. Com.

(8.) W. R. Baronettus Vic. &c. salutem. Cum nuper vobis & cuilibet vestrum mandavi quod attach. A. B. per bona & catalla sua ita quod sit ad Cur. Com. mei præd. tenend. apud Castrum Ebor. die Mercurii, &c. ad respond. C. D. de placito debiti quia tamen idem A. B. comperuit per Johannem Smith Attornatum suum ad respondend. præd. C. D. in placito suo præd. ideo vobis & cuilibet vestrum mando quod de executione præcepti prædicti supramentionat. omnino superseed. Et si aliqua bona seu catalla dicti A. B. virtute præcepti illius cepistis seu distrinxistis tunc ea sine dilatione eidem A. B. redeliberari fac. Dat. apud Castrum Ebor. præd. sub sigillo officii mei, &c.

A Super-seedeas upon a Distringas or Attachment.

(9.) T. R. Armiger Vic. Com. præd. senescallo necnon balivo Curie Wapentagii (sive Hundredi) de Harthill, Quia dat. est mihi intelligi quod estis favorabiles & non aequales in quadam loquela in Curia Wapent. (sive Hundredi) præd. penden. inter J. B. quer. & R. S. Defendentem, Ideo ex parte Domini Regis & virtute officii mei præd. mando vobis quod tolletis loquelam prædictam quæ est in Cur. prædicta inter partes prædictas penden. & eandem loquelam habeatis ad proximam Curiam Com. mei præd. tenend. apud Castrum Ebor. die Mercurii xvi die A. prox. futuro, & partibus prædictis eundem diem præfigatis quod sint ad Curiam illam: Et quod ab omni ulteriori prosecutione in loquela prædicta desistatis quousque in Cur. Com. mei præd. aliter in hac parte ordinat. foret. Et qualiter hoc præcept. fuit execut. &c.

A Tolt.

(10.) Apud Cur. Baron. tent. apud W. infra Hundred. de H. præd. die Mercurii ultimo die Julii Anno Regni Regis Caroli &c. tempore J. B. Armig. Vic. Comit. præd.

Hundred de H. ff. Return. placitorum

Original Process.

A. W. Queritur de R. M. defend. de placito debiti. ad dam. viginti solid.

Virtute istius præcepti mihi direct. Recordari & capi causam placitum depend. coram nob. in Cur. nostra inter partes infra nominat. & in epd. statu & conditione sicut nunc pendet & partibus præd. prefiximus & dedimus notitiam, quod sint apud Cur. Comit. infra script. die & loco inframen. Placitum prædictum prosequi, sicut iusticiæ æquitatque pertinebit prout istud præceptum exigit & requirit. In cuius rei testimonium posuimus man. & sigil. &c.

J. S. Steward.
T. L. Bailiff.

A. Proce-
dendo to a
Tolt.

(11.) T. R. Armiger Vic. &c. senescallo necnon ballivo Wapentagii (sive Hundredi) de H. salutem Cum nuper vobis per præceptum meum mandavi ad tollend. loquelam in Curia Wapentagii (sive Hundredi) præd. nuper penden. inter A. B. queren. & C. D. Defendent. & illam habend. ad Cur. Com. mei tent. apud Castrum Ebor. die Mercurii, &c. Quis tamen prædictus C. D. licet solempnit. exact. fuit non comperuit vobis mando quod in loquela præd. in Curia Wapentagii præd. in omnibus cum celeritate qua de Jure & secundum legem & consuetudinem fuerit faciend. procedat. præcepto meo supra mentionat. non obstan. dat. sub sigillo, &c.

Warrant
upon an
Accedas ad
Curiam.

(12.) ff. A. P. Arm. Vic. &c. senescallo necnon ballivo Cur. Honoris de Pontefract. salutem Virtute brevis Domini Regis mihi direct. vobis mando quod assumptis vobiscum quatuor discretis militibus de Com. meo præd. in plena Curia illa recordari fac. loquelam quæ est in eadem Curia sine brevi dicti Domini Regis inter G. H. & J. H. & B. D. de averiis ipsius G. capt. & injuste defent. ut dic. ita quod Recordum illud habeam coram Justiciariis dicti Domini Regis apud Westminster in Octab. Sancti Hilarii sub sigillo vestro & sigillis prædictor. quatuor legalium hominum & partibus eundem diem præfigatis quod tunc sint ibi in loquela illa prout iustum fuer. processur. unacum nominibus quatuor hominum & hoc warrant. dat. sub sigillo officii, &c.

A. Subpœna
ad testifi-
cand.

(13.) G. C. Baronettus Vic. Com. præd. A. B. C. D. & F. G. salutem Vobis & cuilibet vestrum mando quod (omnibus aliis prætermittis & quacunque excusatione cessan.) sitis in propriis personis vestris ad Cur. Com. mei præd. tenend. apud Castrum Ebor. die Mercurii, &c. ad testificand. & veritatem dicend. in quadam materia Controversiæ in eadem Curia penden. inter A. B. querentem & C. D. defendentem in placito transgressionis super casum. Et hoc nullatenus omittatis sub periculo incumbend. dat. sub sigillo officii, &c.

(14) R. G.

(14.) R. G. Miles Vic. Com. præd. ballivo Wapentagii (sive *Venire fac. Jurator.* Mundredi) de Ouse & Darwent & ejus deputat. conjunct. & divisim salutem, Vobis & cuilibet vestr. mando quod venire fac. coram sectatoribus Curie Com. mei prædicti tenend. apud Castrum Ebor. die Mercurii, &c. duodecim probos & legales homines de Com. meo præd. ad ibid. faciend. Jurat. patriæ inter partes querentes & defendentes in separalibus panellis huic annex. nominat. in separalibus actionibus in eisdem panellis mentionat. Et quod adtunc & ibidem habeatis nomina Jurat. ill. & hoc præceptum (periculo incumben.) dat. sub sigillo officii mei, &c.

(15.) ff. Nomina Jurator. inter A. B. querentem & C. D. Panel. Defendentem de placito transgr. super casum.

J. Smith Attorn' pro Quer'
T. Wilson Attorn. pro Def.

Judicial Process.

Judicial Process issues out after Judgment either by Default, Confession of the Action, or Verdict against the Defendant, or Nonsuit, Discontinuance or Verdict against the Plaintiff. The several Forms of Judicial Process are as followeth:

(1.) ff. A. B. Armiger Vic. &c. omnibus & singulis ballivis, *Com. Ebor. Fieri fac. in deb.* &c. salutem Vobis & cuilibet vestrum conjunctim & divisim mando quod de bonis & catallis T. B. Fieri facias tam quoddam debitum triginta solidor. quod H. S. in Cur. Comit. mei recuperavit versus eum quam tresdecim solidos & decem denarios qui præfato H. S. in eadem Curia adjudicat. fuer. pro misis & custag. suis circa sectam suam in ea parte expend. Et habeatis denarios illos apud Castrum Ebor. ad prox. Cur. Comit. mei ibidem tenend. die Mercurii, &c. reddend. præfato H. S. de debito & dampnis præd. unde convict. est Et hoc, &c. dat. sub sigillo officii mei, &c.

(2.) ff. J. B. Arm. Vic. &c. omn. & sing. ballivis, &c. salutem *Fieri fac. Super verdict. pro Def.* Vobis & cuilibet vestrum conjunctim & divisim mando quod de bonis & catallis quæ nuper fuer. W. W. defunct. tempore mortis suæ & in manibus J. W. Executoris testamenti præfati W. W. fieri fac, tam quoddam debitum quadraginta librarum quod T. L. in Cur. Com. mei virtute brevis de Justiciis versus eum recuperavit quam viginti solidos qui præfato T. L. in eadem Cur. adjudicati fuer. pro damnis suis quæ habuit occasione detentionis debiti præd. si præf. J. W. tanta bona seu catal. quæ fuer. præd. W. W. tempore mortis suæ in manibus suis admistrand. habeat. Et si non habeat tacta bona seu catalia in manibus

manibus suis administrand. tunc damna præd. de bonis & catallis præfat. J. W. propriis. Et quod denar. illos habeatis ad prox. Cur. Com. mei præd. tenend. apud Castrum Ebor. &c. ad reddend. præfat. T. L. de debito & dampnis præd. unde convict. est. Et hoc, &c. dat. sub sigillo officii mei, &c.

*Fieri fac.
super Ver-
dict. pro
Defend.*

(3.) B. B. Armig. vic. &c. omnibus, &c. salutem Vobis & cuilibet vestrum mando quod de bonis & catallis J. F. in Com. præd. fieri fac. quadraginta & duos solidos & duos denarios qui T. B. in Cur. Com. præd. apud Castrum Ebor. in eodem Com. adjudicat. fuerunt pro dampnis suis secundum formam statuti quæ sustinuit occasione quod idem J. quandam querelam in placito transgr. super casum versus præfat. T. injuste persecut. fuit prout per quandam Jurat. patrie nuper compert. extitit. Et denarios illos habeatis ad proximam Curiam Com. præd. tenend. apud Castrum Ebor. die Mercurii, &c. ad reddend. præfato T. de dampnis prædictis unde convict. est & hoc, &c.

*Fieri fac.
upon a
Nonsuit.*

(4.) Quod de bonis & catallis A. B. in Com. meo prædicto fieri fac. quatuordecim solidos & quatuor denarios qui C. D. in Cur. Com. præd. coram sectatoribus ejusdem Curie juxta formam statuti inde edit. & provis. adjudicat. fuerunt pro missis & custagiis suis pro eo quod præd. A. non prosecut. fuit querelam suam per eundem A. in placito transgressionis & insult. versus præfat. C. in præd. Cur. nuper impetrat. Et denarios illos habeatis ad proximam Curiam Com. præd. coram sectatoribus Curie præd. tenend. apud Castrum Ebor. die, &c. ad satisfaciend. præfato C. de missis & custagiis præd. unde convict. est. Et hoc, &c.

*Fieri fac. in
Transpals.*

(5.) Quod de bonis, &c. qui C. D. in Curia Com. prædicta coram sectatoribus ejusdem Cur. adjudicat. fuerunt pro dampnis suis quæ habuit occasione cujusdam transgressionis eidem C. per præfatum A. apud Clifton in Com. præd. illat. Et denarios illos, &c. ad satisfaciend. præfato C. de dampnis prædictis unde, &c.

*Fieri fac.
in transg.
super casum*

(6.) Ut præantea adjudicat. fuerunt pro dampnis suis quæ habuit occasione cujusdam transgr. super casum eidem quer. per præfatum (Def.) apud H. in Com. præd. illat. Et denarios illos, &c.

*Fieri fac.
super pro-
mission.*

(7.) Adjudicat. fuerunt pro dampnis suis quæ habuit occasione quarundam promission. & assumption. eidem (queren.) per præfat. (Defend.) apud S. in Com. meo præd. illat. Et denarios illos, &c.

(8.) H.

(8.) ff. J. B. Ar. &c. omnibus, &c. salutem Vobis & cuilibet vestrum conjunctim & divisim mando quod de bonis & catallis quæ nuper fuerunt J. B. Arm. & nunc in manibus J. R. generosi & A. uxoris ejus Administratricis bonorum & catallorum quæ fuerunt prædicti J. B. tempore mortis sue administrand. *Fieri fac. de bonis intestatis Baron and Feme.* tam quoddam debitum 4. l. quod J. W. recuperavit versus præd. J. B. in Cur. Com. mei quam 33 s. qui præd. J. W. per eandem Curiam adjudicati fuerent pro dampnis suis quæ habuit occasione detentionis debiti illius virtute brevis de Justiciis. Et quod denarios illos habeatis ad proximam Curiam meam Com. mei tenend. apud Castrum Eborum, &c. ad reddendum præfato J. W. debitum & dampna præd. de quibus prædictus J. B. convictus fuit, unde consideratum est in eadem Curia mea quod præd. J. W. executionem haberet versus præd. J. R. & A. uxorem ejus de debito & dampnis præd. de bonis & catallis præd. per default. præd. J. R. & A. Et hoc, &c. dat. sub sigillo officii mei, &c.

(9.) ff. A. P. Arm. &c. omnibus, &c. salutem Cum T. F. *Ret. aver.* summonitus fuit essend. in Curia Com. mei tenend. apud Castrum Eborum die Mercurii, &c. ad respondendum R. S. de placito quare cepit averia ipsius R. videlicet decem oves & eas injuste detinuit contra vadios & pleg. ut dicitur idem R. postea in eadem Curia fecit defaultam ob quam consideratum fuit quod ipse & pleg. sui de prosequend. essent in misericordia. Et quod prædictus T. iret inde sine die & haberet retorn. averiorum prædictorum Ideo vobis & cuilibet vestrum mando quod præfato T. averia præd. sine dilatione retornari fac. & ea ad querimon. ipsius R. S. non deliberetis sine præcepto meo quod de præfato Judicio expressam fac. mentionem Et qualiter hoc præceptum meum fuerit execut. certific. ad proximam Curiam Comitatus mei tenend. apud Castrum Eborum die Mercurii scilicet quinto die N. proximo futur. Et habeatis ibi hoc præceptum dat. sub sigillo officii mei, &c.

(10.) ff. A. P. Arm. &c. salutem Cum T. F. summonitus fuit essend. in Curia Comitatus mei tenend. apud Castrum Eborum duodecimo die Junii ult. præterit. ad respondendum R. S. de placito quare cepit averia ipsius R. videlicet duos equos & ea injuste detinuit contra vadios & pleg. ut dicitur & idem R. postea in eadem Curia fecisset default. Ita quod tunc consideratum fuisset per eandem Curiam quon ipse & pleg. sui de prosequend. essent in misericordia Et quod prædictus T. iret sine die Et quod haberet retorn. averiorum prædictorum per quod vobis mandavi quod eidem T. equos prædictos sine dilatione retornari fac. Et quod equos illos ad querimon. prædicti R. non deliberetis sine præcepto meo quod de præf. Judic. expressam faceret mentionem, virtute cujus præcepti averia prædicta

Judicial Process. Fees.

dicta in manus vestras ceperitis retornari eidem R. S. Et quia prædictus R. S. mihi dedit ulterius sufficientem securitatem tam de clamore suo nunc prosequend. quam de averiis prædictis retornand. si retorn. inde adjudicet. Ideo ex parte Domini Regis & virtute officii mei vobis & cuilibet vestrum mando quod eidem R. averia prædicta sine dilatione deliberari fac. Et summon. præd. T. quod sit apud Castrum Ebor. ad prox. Curiam Com. mei ibidem tenend. &c. ad respond. præfato R. de placito captionis, &c. Et hoc, &c. datum, &c.

A Table of Fees.

The Fees to the County Clerk.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
F OR every County-Warrant, or entring ? Plaint,	00	00	08
For every <i>Distringas</i> or Attachment,	09	00	08
For every special <i>Distringas</i> or Attachment,	00	01	08
<i>Duces Tecum,</i>	00	00	08
A special <i>Duces Tecum,</i>	00	01	08
A Writ of <i>Justicies</i> to the Curfitor,	00	02	06
The Precept upon it,	00	02	04
A special Precept upon the Writ of <i>Justicies,</i>	00	04	04
Dividing a Plaint for every Name,	00	00	04
A Replevin,	00	02	04
A special Replevin,	00	04	04
A Bond upon the Replevin,	00	01	00
Warrant of Attorney in Debt,	00	00	02
Warrant of Attorney in Case or Trespals,	00	00	04
Warrant of Attorney upon a <i>Justicies,</i>	00	00	04
Entring <i>Essoins</i> for every Name,	00	00	04
Entring <i>Imparlance,</i>	00	01	00
Copy of every Declaration,	00	01	00
Allowing every Answer,	00	01	00
Copy of every Answer,	00	01	00
Allowing the Replication,	00	01	00
Copying the Replication, and allowing of the ? Rejoinder, &c. and so of the rest,	00	02	00
Entring a Rule,	00	00	04
Entring a Default by <i>Nil dicit,</i>	00	00	04
Entring a Nonsuit	00	00	04
<i>Subpæna</i> for Witnesses,	00	00	08
<i>Venire facias,</i>	00	02	00
Return of the <i>Venire,</i>	00	02	00
Entring Judgment,	00	02	00
<i>Fieri facias,</i>	00	02	00
<i>Scire facias,</i>	00	02	00
			<i>Tolt,</i>

<i>Tolt,</i>	60	01	02
Precept upon an <i>Acedas ad Curiam,</i>	00	02	04
<i>Superfedeas,</i>	00	02	04
<i>Procedendo,</i>	00	02	00
Transcript upon a <i>Plaint</i> and Allowance,	00	01	08
Transcript upon a <i>Writ of Jusficies</i> and Allowance,	00	03	04
Allowing a <i>Recordari,</i>	00	02	04
Return,	00	02	00
Allowing a <i>Pone,</i>	00	04	10
Allowing a <i>Writ of false Judgment,</i>	00	06	08
Return of a <i>Pone,</i>	00	02	00
Return of a <i>Proclamation,</i>	00	01	00
For every Name returned waived, or outlawed,	00	00	04

The Fees to the Attorney.

Fee for his Appearance,	00	02	00
Drawing every Declaration,	00	01	00
Drawing every Plea,	00	01	00
Drawing the Replication,	00	01	00
Drawing Rejoinder,	00	01	01
Drawing Sur-rejoinder,	00	01	00
For every Court-Day wherein he proceeds in } the Action allowed as his Fee,	00	02	00

Fees to the Bailiff for executing of Process.

For executing every <i>Summons</i> of the Plaintiff,	00	00	04
And of the Defendant,	00	00	08
Executing a <i>Disfringas,</i> or Attachment of the } Plaintiff,	00	00	04
Of the Defendant,	00	00	08
A <i>Duces Tecum</i> of the Plaintiff,	03	00	04
Of the Defendant,	00	00	08
A <i>Jusficies</i> of the Plaintiff,	00	01	00
Of the Defendant,	00	02	00
A <i>Replevin</i> of the Plaintiff,	00	02	00
A <i>Venire facias,</i>	00	02	00
If tried, for the Return,	00	02	00
A <i>Fieri facias,</i>	00	02	00
A <i>Scire facias,</i>	00	02	00

Replevin.

A Replevin.

IF the Cattle be not delivered by Virtue of the Replevin, then the Plaintiff may have an Alias Replevin with these Words, vel causam mihi signific. which Replevin must be made after this Manner :

Ebor. ff.
Alias Replevin.

I. G. Miles, &c. omnibus &c. singulis ballivis meis, &c. salutem. Quia G. A. ven. coram me, & invenit sufficientem securitatem tam de clamore suo prosequendo, quam de averiis suis retor. si retor. inde adjudicetur Ideo virtute officii mei vobis & cuilibet vestrum conjunctim & divisim mando sicut alias vobis mandavi quod vos sive aliquis vestrum sine dilatione eidem G. A. repleg. & deliberati fac. duas vaccas quas H. I. cepit & injuste detinet (ut dicit.) vel causam mihi significet. vel unus vestrum significet quare mandata mea vobis inde directa exequi noluit aut non potuit Et quod ponat, &c. ut in al.

Proceedings alter the Alias.

And if the Cattle be not delivered upon this Replevin, nor sufficient Cause why he did not; then the Party may have a Pluries Replevin, vel causam mihi signific. which must be made verbatim as the Alias Replevin was made; and if Return be made upon any of these Replevins, quod averia elongat. sunt ad loca sibi ignota ita quod averia illa præf. A. G. non potuit deliberare. Then the Plaintiff may have a Withernam, which must be made in this Manner:

Ebor. ff.
Withernam

I. G. Miles, &c. omnibus &c. singulis ballivis meis, &c. salutem. Quia G. A. ven. coram me, &c. (sicut prius) vobis & cuilibet vestrum mando, sicut pluries vobis mandavi, quod vos seu aliquis vestr. replegiari & deliberati fac. præf. G. A. duas vaccas quas H. I. cepit & injuste detinuit, & adhuc injuste detinet (ut dicit.) Et quod vos super diversa mea præcepta pro repleg. fieri vobis directa certificet. quod animalia prædicta elongat. sunt ad loca tibi incognita ita quod vnum earundem habere non potueritis: Ideo vobis & cuilibet vestrum mando quod vos seu aliquis vestr. capiat in Withernam catalia ad valenciam præd. duarum vaccarum de catalis ipsius H. I. deliberand. præf. G. A. pro duabus vaccis prædictis elongat. Ac etiam quod pon. per vados & salvos plegios præd. H. I. quod sit & compareat apud, &c. ut in al. Replevin.

Ebor. ff.
Alias Capias in Withernam.

G. A. Ar. omnibus, &c. salutem. Quia apud Cur. Com. mei tent. apud Castrum Ebor. die Lunæ, &c. anno, &c. mihi retor. fecistis. quod virtute præcepti mei vob. sæpe direct. venistis ac parc. H. H. ad locum ubi duæ vacce præd. imparc. & detent.

detent. fuer. per. prefat. H. I. & iste due vacce elongat. fuer. ex parco prad. ad loca vobi incognita per prefat. H. I. ita quod duas vacc. prad. non potueritis replegiare: Ideo considerat. est per Cur. quod averia prad. H. I. capiuntur in Withernam ad valenc. &c. Et ista prad. aver. deliber. prefat. G. A. salvo & secure custodiri quousq; prad. G. A. aver. prad. secundum legem potestis replegiare. & secundum mand. mea prad. Ideo vobis & cuilibet vestrum conjunctim & divisim mando quod capiatis, seu, &c. aver. prad. H. I. ad valenc. in Withernam & ea prad. G. A. deliberari, causetis seu, &c. nisi & secure custodiri usque, &c. Et quod distringatis seu, &c. prad. H. I. ita quod sit apud Castrum Eborum ad prox. Cur. Com. mei testit. &c. ad respondendum eidem G. A. de prad. placito prad. & respons. mandati mei cognit. facietis, &c. apud proximam Cur. Dat. sub sigillo officii mei anno, &c.

Note, That when a Replevin is granted, there must be a Bond taken of him to whom it is granted, or of some other for him, with one or two Sureties, to appear at the next Court, and to prosecute his Suit with Effect, or else it may be prejudicial both to the Grantor of the Replevin, and to the Execution thereof, and the Form of that Bond, and Condition thereof is this:

Pledges must be given on a Replevin.

Noterint universi per presentes nos A. G. de S. in Com. Ebor. Gen. Sal. B. de eadem Villa & Com. Gen. teneri & firmiter obligati Com. Alm. vic. Com. prad. in centum libris legalis monete Anglie, solventi eidem G. M. aut suo certo Attornato, Executoribus, Administratoribus vel Assign. suis: ad quam quidem solutionem bene & fideliter faciend. obligamus nos & utrumque nostram, Heredes, Executors & Administratores nostros, pro toto & in solido firmiter per presentes. Sigillis nostris sigillat. Dat. vicesimo die Junii Anno Regni Dom. &c. Dei gratia Anglie, Scotie, Francie & Hibernie, &c. xi. Annoq; Dom. 1699.

An Obligation up on a Replevin.

The Condition of this Obligation is such: That if G. A. do appear at my next County Court to be holden for the County of York, at the Castle of York, on Wednesday the, &c. next, and do prosecute therewith Effect his Suit which he hath commenced against H. I. for the taking and unjust detaining of two Kine of the Goods of him the said G. A. and to make Return of the Goods, if Return of the same shall be adjudged: That then this present Obligation shall be void, and of none Effect, &c.

The Condition.

The Condition, &c. That whereas G. A. hath obtained from the above-named Sheriff, a Replevin for the delivering of the two Kine, and other Goods distrained and detained by H. I. and others; if therefore the said G. A. do prosecute his Suit upon the said Replevin

Or thus.

vin with Effect, and do make Return of the Goods, if Return thereof shall be adjudged; and also do save and keep harmless the said Sheriff by reason of the said Replevin by him granted, as aforesaid, That then this present Obligation to be void, &c.

Judicial Process.

Fieri fac.

Com. Ebor. I. B. Ar. Vic. &c. omnibus & singulis ballivis, &c. salutem. Vobis & cuilibet vestrum conjunctim & divisim mando, quod de bonis & catallis T. B. fieri fac. tam quoddam debitum triginti solidorum quod H. S. in Cur. Com. mei recuperavit versus eum quam tresdecem solid. & decem denar. quid præfat. H. S. in eadem Curia adjudicab. fuer. pro misis & custag. suis circa festam suam in ea parte expend. Et habeatis denarios illos apud Castrum Ebor. ad prox. Cur. Com. mei ibitenend. die Mercurii, &c. ad reddend. præfat. H. S. de debito & dampnis præd. unde convict. est. Et hoc, &c. Dat. sub sigillo officii mei, &c.

Ebor. ff.
Fieri fac.
cont. Ex-
ecutor.

(2.) I. B. Ar. Vic. omnibus & singulis ballivis, &c. salutem. Vobis & cuilibet vestrum conjunctim & divisim mando quod de bonis & catallis quæ nuper fuer. W. W. defuncti tempore mortis suæ in manibus J. W. Executor. testamenti præfat. W. W. fieri fac. tam quoddam debit. quadraginta librarum quod T. L. in Cur. Com. mei virtute brevis de Justiciis versus eum recuperavit quam viginti solid. qui præd. T. L. in eadem Cur. adjudicat. fuer. pro dampnis suis quæ habuit occasione detent. debit. præd. si præfat. J. tanta bona seu catalla quæ fuer. præd. W. W. tempore mortis suæ in manibus suis administrand. habeat Et si non habeat tanta bona seu catalla in manibus suis administr. tunc dampna præd. de bonis & catallis præfat. J. W. propriis Et quod denar. illos habeat. ad præd. prox. Cur. Com. mei tent. apud Castrum Ebor. &c. ad reddend. præfat. T. L. de debit. & damp. præd. unde convict. est. Et hoc, &c. Dat. sub sigillo officii mei, &c.

De bonis
propriis.

Ebor. ff.
Fieri fac.
pro misis.

I. B. Ar. &c. omnibus & singulis ballivis, &c. salutem. Vobis & cuilibet vestrum conjunctim & divisim mando quod de bonis & catallis T. O. fieri fac. viginti solid. qui S. D. in Cur. Com. mei (secund. præd. Statut. in eo casu provis.) pro dampnis suis quæ ille sustinuit in defensione sua faciend. in quodam placito debiti quod. præd. S. D. versus præd. T. O. nuper produc. quia præfat. T. O. festam suam non prosecut. est, sed de eo convict. ita quod habeam eandem pecuniam apud prox. Cur. Com. mei tent. apud Castrum Eborum die Lune, &c. prox. ad satisfaciend. præd. S. D. de misis & dampnis præd. Et hoc, &c. Dat. sub sigillo officii mei, &c.

I. B. Ar. &c. omnibus, &c salutem. Vobis & cuilibet vestrum conjunctim & divisim mando quod de bonis & catallis quæ nuper fuer. I. B. Arm. & nunc in manibus I. R. Gen. & A. uxoris ejus Administratricis bonorum & catallorum quæ fuerunt prædicti I. B. tempore mortis suæ Administr. fieri faciatis tam quoddam debit. 4 l. quod W. recuperaverit versus præd. I. B. in Curia Com. mei quam 33 s. qui præd. I. W. per eandem Curiam adjudicat. fuerunt pro dampnis suis quæ habuit (occasione detentionis debiti illius) virtute brevis de Justic. Et quod habeatis præd. pecun. apud prox. meam Cur. Com. mei tent. apud Castrum Eborum, &c. ad reddend. præfat. I. W. debit. & dam. præd. de quibus præd. I. B. convict. fuit. Unde consideratum est in Curia mea eadem quod præd. I. W. Executionem haberet versus prædictum I. R. & A. uxorem ejus, de debito & dampnis prædictis, de bonis & catallis prædictis per defaultam præd. I. R. &c. Et hoc, &c. Dat. sub sigillo officii mei, &c.

*Fieri fac.
post Scire
fac. versus
Admini-
stratorem
super
Verdict.
prius habit.
vers. inter-
statum.*

I. B. Ar. &c. omnibus & singulis ballivis meis, &c. salutem. Vobis & cuilibet vestrum conjunctim & divisim mando specialiter F. P. Ballivo libertatis de S. & Deputatis suis, qui habent bona capta super Executionem exeun. de hac Cur. quod ill. vigint. vervices, Anglice, *Weasber-sheep*, quarum unumquemque vos apretiar. fac. ad oct. solid. de bonis I. C. Ar. quæ ceperit & modo in manibus vestris reman. intendit. pro defectu Emptorum, sicut vos retor. Cur. mea vend. expon. Et denar. inde qui in toto attingunt ad octo libr. habeatis ad prox. Cur. Com. mei apud Castrum Eborum tent. die Lunæ xiii. die Maii prox. ad reddend. W. G. qui eidem W. G. in Curia mea adjudicat. fuer. pro dampnis suis quæ habuit occasione cujusd. transgr. sibi per eund. I. C. illat. unde convict. est Et hoc, &c. Dat. sub sigillo officii mei xviii die Octobris Anno Regni Domini nostri Caroli Secundi Dei gratia, Angliæ, Scotiæ, Franciæ & Hiberniæ Regis fidei defensoris, &c.

*Venditioni
exponas.*

Per eund. Vic.

Of a Scire Facias.

IF a Fieri Facias do not issue out within a Year and a Day after Judgment entred, it cannot be had till there be a Scire Facias first sued out to summon the Defendant to shew Cause why Execution should not be done; and if now he neglect to answer, or cannot be found to be summoned, then a second Judgment shall be given, that Execution be done of the first Judgment.

If Judgment be given against a Testator, albeit it be within a Year after Judgment had, yet there must first issue out a Scire Facias against the Executor or Administrator (before Execution) to shew Cause why it should not be had.

Or if a Man recover against a Feme sole, and she become Covert, viz. take a Husband within a Year and a Day; then he that shall recover must have a Scire Facias against the Husband, else he cannot charge the Husband.

Scire fac. post an. & diem.

Ebor. ff.

I B. Ar. Vic. &c. salutem. Cum W. F. nuper in Cur. Com. præd. per Judic. in dicta Cur. com. præd. tent. apud Castrum Eborum die Lunæ decimo die Februarii Anno Domini mill. sexcentesimo quinquagesimo quarto coram seßat. ejusdem Cur. recuperavit versus G. L. tam quoddam debitum trigint. & duorum solidorum quos idem W. F. in eadem curia recuperavit versus eum quam tresdec. solid. & decem denar. qui eidem W. F. in curia præd. adjudicat. fuer. pro dampnis suis quæ sustinuit occasione detent. debiti illius unde convict. est sicut per process. inde in eadem curia remanen. manifeste liquet executio tamen præd. judicii restat faciend. prout per insinuationem præfat. W. F. informatus sum Et quia volo quod ea quæ fuer. in dicta curia rite acta sint debit. Judic. demand. Ideo vobis mando quod per probos & legales honestos homines ballivi mei Sci. fac. dist. G. L. quod sit apud castrum Eborum ad proximam curiam com. mei ibid. tent. die Lunæ tertio die Maii prox. futur. ad ostend. si quid habeat dicere vel non quare præfat. W. F. habere non deberet levar. fac. sive execut. versus eum secundum vim form. & effect. ejusdem recuperat. si sibi videtur expediri & habeatis sibi tunc nomina eor. per quos Scire fac. & hoc præceptum Dat. sub sigillo officii mei quarto die Aprilis Anno Regis Caroli Secundi Angliæ, &c. xv.

Scire fac. versus Executor. super judicio versus Testatorem.

Ebor. ff.

I B. Ar. vic. &c. salutem. Cum N. N. nuper in curia com. præd. tent. apud castrum Eborum die Lunæ, &c. coram tunc vic. dicti com. præd. per Judic. ejusdem curiæ recuper. versus H. N. tam quoddam deb. quadragint. librar. quam vigint. & duos solid. & duos denar. pro dampnis suis quæ sustinuit ratione detent. deb. illius unde convictus est sicut per process. residen. in eadem curia liquet. Ac cum executio Judic. adhuc restat. faciend. & præd. H. N. post reddic. Judicii præd. mortuus est prout per intimationem dicti N. N. sum informatus Et quia volo quod ea quæ rite acta sunt in dicta curia

Scire faciās.

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curia debet. execut. demand. vobis mando quod per probos & legales homines dict. com. Scire fac. F. N. Executric. testam. dict. H. N. quod sit ad prox. com. meum tenend. pro dict. com. apud castrum Eborum die Lunæ, &c. ad ostend. si quid habeat vel sciat dicere quare præfat. N. N. executionem suam versus eum habere non debeat de debito & dampnis præd. de bonis & catallis quæ fuer. dict. H. N. tempore mortis suæ levand. & ulterius agere & recipere, &c. Dat. sub sigillo officii mei, &c.

Sci. fac. after Marriage.

I B. Ar. vic. &c. salutem. Cum A. B. nuper in cur. com. Ebor. ff. mei tent. n. p. castrum, &c. coram sectator. ejusdem cur. recuperavit versus C. D. tam quoddam debet. quadragint. libr. quam quadragint. solid. qui eidem A. B. in eadem curia adjudicat. fuer. pro misis & custag. suis quæ habuit occasione detentionis debiti illius, unde convict. est sicut per process. inde in eadem curia coram dict. sectat. remanen. satis liquet: Executio tamen dic. Judic. restat faciend. Et præd. A. B. post reddit. judic. præd. cepit in virum suum T. R. prout per allegat. dict. A. B. accepi Et quia volo quod ea quæ rite acta sunt debet. execut. demand. vobis mando quod per probos & legales homines balliv. vestri Scire fac. & notum fac. eidem C. D. quod sit ad prox. com. meum tenend. apud, &c. ad ostend. si quid habeat, vel aliquid sciat pro se dicere, vel non, quare præd. T. R. Execut. judic. præd. non habeat de debito & dampnis præd. secundum vim & effect. recuperationis præd. si sibi videtur expedire. Et habeat ibi nomina eorum per quos ei Sci. fac. Et hoc præceptum, &c. Dat. sub sigillo officii mei quarto die Junii, Anno Regni Dom. nostri Gulielmi Tertii Dei Gratia Angliæ, Scotiæ, Franciæ & Hiberniæ Regis fidei defensor. &c. xlv.

Venire fac. Furator.

I B. Ar. Vic. com. præd. ballivo Hundredi de O. sive deputat. Ebor. ff. suo, salutem. Vobis & cuilibet vestrum mando quod Ven. fac. coram legal. Seneschal. meo per me appunctuat. pro com. meo tenend. apud castrum Ebor. die Lunæ, &c. omnes illas separales personas in panella huic annex. mentionat. ad citand. tales separales exitus inter partes & partes quales adtunc & ibidem illis præcept. fuerint. Et hoc nullatenus omittat. sicut cuilibet vestrum contrar. ad pericula vestra respond. una cum hoc præcept. Dat. sub sigillo officii mei, &c.

Decem Tales.

Or thus :

Ebor. R.

I. B. Ar. &c. Hæc sunt ad requirend. te dictum ballivum quod venire fac. duodecim probos & legales homines de balliva tua, quod sint & compareant ad prox. cur. com. mei tenend. apud castrum Eborum die Lunæ, &c. per nonam horam ante meridiem, ad triand. exit. junct. inter A. B. quer. & C. D. def. de placito debiti (*or as the Case is*) Et hoc nullatenus omittatis dat. sub sigillo officii, &c.

And if a full Jury do not appear, then as many as make Default shall be amerced, and a Decem Tales awarded to summon ten more, as followeth, and the same Day given to the first Jury.

Decem Tales.

Ebor. R.

I. B. Ar. &c. Hæc sunt ad requirend. te præfat. ballivum quod Venire fac. decem plures probos & legales homines ballivi tui quod sint ad prox. com. meum tenend. apud castrum Eborum die Lunæ, &c. cum aliis qui sibi adtunc & ibidem associantur, ad triand. quend. Exit. junct. inter A. B. Quer. & C. D. Defend. de placito debiti, &c.

And as many of these as make Default shall be amerced, and then an Octo Tales shall be awarded; and if Necessity require it afterwards, a Sex Tales.

Subpœna, or a Warrant to summon Witnesses.

Ebor. R.

I. B. Ar. Vic. Com. præd. I. B. I. G. &c. salutem. Vobis & cuilibet vestrum mando quod (omnibus aliis prætermisissis & excusatione quacunque cessante) vos & cuilibet vestrum sitis & personal. compareatis ad prox. cur. com. mei tenend. apud castrum Eborum die Lunæ decimo die Junii prox. futur. ad testificand. veritatem secund. notitiam vestram in quadam actione ibidem depend. inter A. B. Quer. &c. C. D. Def. de placito debiti: Et hoc nullatenus omittat. sub forisfac. cujuslibet vestrum cent. libr. Et hoc, &c. Dat. sub sigillo officii mei, &c.

A Liberate to deliver Goods taken upon Original or Mean Process.

I B. Ar. Vic. com. præd. omnibus & singulis ballivis meis in Ebor. II. & per totum com. meum, & eorum deputat. necnon A. B. salutem: Cum S. U. comparuit per Attorn. suum in hac curia ad respondend. W. N. de placito debiti: Ideo hæc sunt ad volend. & requirend. vos immediate super visum hujus deliberare, sive deliberari faciend. S. W. quas vacas de bonis dict. S. U. quæ vos distrinxistis & custoditis virtute Warrant. mei ab hac curia direct. ad fest. præfat. W. N. & hoc non omittat. sicut contrar. respond. Dat. sub sigillo officii mei, &c.

A Precept upon Proclamation.

I B. Ar. Vic. &c. ballivo Hundredi de B. & deputat. suis, Ebor. II. salutem: Virtute Proclamat. super exigi fac. mihi direct. vobis & cuilibet vestrum mando, quod vos sive aliquis vestrum duas separales Proclamat. faciat. un. quar. faciend. ad general. Quart. Session. pacis tenend. pro le North-riding com. Ebor. & alter faciend. apud ostium Ecclesiæ Parochial. post Celebrat. Divin. Servic. ubi separal. person. subscript. inhabitant quod ii & eor. quilibet corpora eorum reddant mihi Vic. com. præd. ubi exig. fac. versus eos est: Et hoc non omittat. ad periculum vestrum. Dat. sub sigillo officii mei xxii die Aug. Anno Regis Caroli Secundi Angliæ, &c. xiv.

At the Election of the Coroner, he is to be sworn in Court by the County-Clerk, for the due Execution of his Office, in this Manner,

You shall swear, That you well and truly shall serve our Sovereign Lord the King in the Office of a Coroner; and as one of his Majesty's Coroners of the County of Y. and therein you shall truly and diligently do and accomplish all and every Thing and Things appertaining to your Office, after the best of your Cunning, Wit and Power, both for the Profit and Good of the Inhabitants within the said County, taking such Fees as you ought to take by the Laws and Statutes of this Kingdom, and not otherwise. So help you God.

The Oath of an Attorney.

YOU shall do no Falshood, nor consent to any to be done in the Court; and if you know of any to be done, you shall give Knowledge thereof to the Steward, or County-Clerk, That the same

may be reformed : You shall delay no Man for Lucre or Malice : You shall encrease no Fees, but shall be content with the old Fees accustomed : You shall suffer no Foreign or illegal Suits to hurt any Man, nor plead or cause to be pleaded any Foreign Plea, but such as shall stand with the Order of the Law and your Conscience : You shall not procure to be sued any false Suit, nor give Aid nor Consent to the same. And lastly, you shall use your self in the Office of an Attorney within this Court according to your Learning and Discretion. So help you God.

A Warrant of Attorney.

To S. D. one of the Attorneys of the County-Court for the County of York, or to any other Attorney of the same Court.

I A. B. do hereby desire you, and do give you full Power, Licence and Authority to appear for me, and for, &c. in your said Court on Monday, &c. in an Action of Debt, for, &c. at the Suit of E. D. upon an Obligation conditioned for the Payment of, &c. in which said Obligation I stand bound as Principal : And this shall be your sufficient Warrant in that Behalf. In Witness, &c.

Bond for Appearance.

It hath been formerly used to take a Bond of the Defendant for his Appearance in this Court : The Form of the Condition is this :

THE Condition, &c. That if the above-bounded E. T. do appear at the next County-Court to be holden at the Castle of Y. on Monday the first Day of January next, to answer H. B. in a Plea of Debt, and do also stand to such Order as the Court in that Behalf shall set down, and adjudge according to Law ; that then this present Obligation to be void, &c.

A Sale of the Goods to the Plaintiff levied upon a Fieri Facias, by the Sheriff's Bailiff.

KNOW all Men by these Presents, That I G. B. of Skipton in Craven, Bailiff of the Liberty or Wapentake of Slaincliff in the County of Y. by Vertue of a Precept of Fieri Facias from the Sheriff to me directed, have levied of the Goods and Chattels of, &c. the Sum of, &c. Part of a Debt due to, &c. levied by Vertue of this Precept to his Use. In full Satisfaction of which said Sum of, &c. I do by Vertue of the Precept or Warrant to me directed as aforesaid assign,

assign, sell, and set over to the said, &c. all the Goods and Chattels in the Appraisement hereto annexed nominated, at the Rate of, &c. To have, &c. the said Goods and Chattels, to Him, his Heirs, Executors and Administrators, as his, or their own proper Goods and Chattels, as fully and absolutely as I the said G. B. might, could or ought to do by Force and Virtue of the said Precept and Appraisement, or otherwise howsoever. In Witness whereof I have hereunto set my Hand and Seal, the 16th Day of August, in the Year of our Lord, 1658.

A Deputation for a Bailiff of an Hundred.

I A. B. Esq; Sheriff of the County of Y. To all Christian People whom these Presents do or may concern, greeting. Know ye, that I the said Sheriff have deputed, constituted and appointed R. D. of A. in, &c. my lawful Bailiff and Deputy within the Hundred of B. in the North Riding, in the County of Y. aforesaid, to have and execute the said Office of Bailiff within the said Hundred, or elsewhere within the said County of Y. as Occasion shall require it, during my Pleasure only, and no longer; and to receive and take to my Use all Fees, as well for Distress, Attachment, and Perquisites of Courts, and other Profits due and accustomed whatsoever to the said Bailiwick belonging, or in any wise appertaining. And whatsoever my said Bailiff shall lawfully execute and do in his said Office, I do hereby warrant, ratify and confirm, as my own Act and Deed. In Witness whereof I have hereunto set the Seal of my Office the 17th Day of August, 1658.

The Order of the Judges of Assize at York, the 24th Day of July, 1654. concerning Essoins illegally returned into this Court.

W Hereas of late Judgments have been surreptitiously obtained in this Court, by reason of Essoins unduly brought into the Court, by Bailiffs or their Deputies, and others, after Attachment of Goods for Appearance; which pretended Essoins being afterwards disavowed by the Defendant, have occasioned sundry Complaints and Suits, when the Defendant's Goods were taken in Execution: For preventing whereof, it is ordered, upon Advice and Consultation had with the Judges of Assize at York, this Day, that henceforth no common Essoin shall be entred and allowed by the Court to save a Default, unless it be warranted in Writing, under the proper Hand-writing, or under the Hand, Seal or Mark of the Defendant, whereby specially authorizing the Party being the Essoiner to cast such Essoin for him, and in his Name; for the Truth of which Subscription or sealing, the same Essoin is to be sworn in open Court, and no Essoin is to be admitted or received from henceforth, being not affirmed,

and sworn unto, and so entred upon the Back of the Warrant of Attachment, which is to remain upon the File amongst the Rolls or Proceedings of the Court: And if any other Person (not being a Bailiff) shall be the Essoiner, he is to bring the like Warrant from the Defendant in Writing as is aforesaid, and be sworn for the Truth thereof, which is to remain in Court as aforesaid: And no Judgment shall be given where there is no other Appearance but an Essoin, unless the Essoin shall appear to be warranted as aforesaid.

Note, To swear to warrant Essoins in this Court is contrary to the Statute of Marlbr. cap. 19. which saith, De Essoiniis autem provisum est, quod in Com. &c. nullus habeat necesse jurare pro Essoinio suo Warrantizand.

Of the Nature and Return of those Writs that do remove Actions of this Court into Superior Courts.

WRits removing Suits out of this Court, may be without shewing Cause in the Writ, if the Remove be by the Plaintiff; but not without shewing good Cause, if it be by the Defendant: As, that the Suit is for Charters of Land, or for Inheritance, or for Freehold of Land, or any Titles of Land, or Actions touching Life, or Actions to cause one to render an Account, or Trespass vi & armis, all which are not within the Cognizance of the Court; or that he before whom the Action depends, is a Favourer of him that is on the other Side; or that the Defendant avoweth for Damage Feasant, and the Plaintiff doth justify for common of Pasture, which is a Plea touching Freehold, and therefore the Prosecution in this Court ceaseth.

First of a Recordari facias loquelam.

Recordari facias loquelam.

A Recordare is a Writ issuing out of the Chancery, directed to the Sheriff, commanding him to send a Plaintiff that is before him in his County-Court, without Writ of Justicies, into the Court of King's Bench or Common Pleas, to the End that the Cause may be there determined. And the Sheriff is hereupon to summon the other Party to be in that Court (into which the Plaintiff is to be sent) at a Day certain: And of all this he is to make a Certificate under his own Seal, and the Seals of the four Suitors of the same Court.

The Return

Virtute hujus brevis mihi direct. ad Comit. meum Eborum tent. apud Castrum Eborum infrascript. (tali die & anno) Recordari feci loquelam de qua interius fit mentio quæ patet in Schedul. huic brevi annexa, & illud Record. coram Justiciar. infrascript. habeo ad diem & locum infra content. sub sigillo meo

meo, & sigillo W. F. R. & E. quatuor proborum & legalium Militum ejusdem com. ex illis qui Recordo ill. interfuerunt, & partibus infrascript. eundem diem præfixi, quod tunc sint ibi in loquela illa prout iustum fuerit processur. sicut interius mihi præcipitur.

Resid. execut. hujus brevis patet in quadam Scheda huic brevi annex.

Ad com. meum tent. apud castrum Eborum in com. præd. (tali die & anno) coram I. R. M. L. I. S. & S. D. quatuor sectator. dist. cur. inter al. continetur. The Schedule.

R. S. Queritur versus B. W. de placito debiti (or as the Case Ebor. ff.
*) I. B. Ar. Vic. The Plea.

Pledg. de prosequend. I. S. I. D.
In cujus testimonium, &c.

Virtute hujus brevis Recordari feci loquel. quæ est in Com. meo sine brevi Domini Regis inter A. B. & C. D. de averiis ipsius A. B. capt. & injuste detent. ut dicitur & Record. illud coram Justiciar. infrascript. ad diem & locum infrascript. habeo sub sigillo meo & sigillis E. B. S. D. R. B. & I. L. quatuor legalium Militum com. mei ex illis qui Recordo ill. interfuerunt. prout pater in quadam Scheda huic brevi annex. secundum exigen. hujus brevis. Or thus.

Ad Com. meum tent (as before)

Virtute hujus brevis in forma infrascript. ad Cur. infrascript. veni & in ill. plena curia Recordari feci loquelam infrascript. & Record illud prout patet in Schedul. huic brevi annex. habeo coram Justic. infrascript. ad diem & locum infra content. & partibus infrascript. eundem diem præfixi, quod tunc sint ibi in loquela illa prout iustum fuerit processur. sicut interius mihi præcipitur. The Schedule.

A. B. Queritur versus C. D de placito captionis averior. ipsius A. B. in cujus rei testimonium E. B. S. D. I. W. & I. R. quatuor legales homines ex illis qui Record. ill. interfuerunt in plena curia apud castrum Eborum in com. præd. x die Aug. anno, &c. eidem Recordo sigilla sua separaliter apposuer. die & anno supradict.

Note, That though the Plea be discontinued in the County, yet the Plaintiff or Defendant may remove the Plaint into the Common Pleas or King's Bench by a Recordari, &c. and it shall be good, and be shall declare upon the same. And the Court shall hold Plea upon the same When a Recordari may be brought.

What
removed
thereby.

same Plaint; for if the Plaint be continued in the County, and Issue joined upon it, yet nothing shall be removed but only the Plaint, and in the Common Pleas the Plaintiff may declare anew, &c.

Likewise if the Recordare bear Date before the Plaint was entered in the County, it is good enough, and the Record is well removed.

The Nature of a Pone.

Recordare
and Pone
how they
differ.

A Pone doth nothing differ from a Recordare, but that a Pone is always to remove such Suits as are before the Sheriff by Writ of Justicies, and not by Plaint only; but the Recordare is to remove the Suit that is by Plaint only without Writ. F. N. B. 70. 11.

The Re-
turn.

Virtute hujus brevis mihi direct. posui coram Justiciar. &c. de Banco apud Westm. loquel. quæ est in Com. meo per breve Domini Regis de Justic. inter A. B. & C. D. de placito debiti, ut dicitur, prout patet in quadam Scedula huic brevi annex, &c.

The Sche-
dule.

Ad Com. meum tent. apud Castrum Eborum in Com. præd. die Lunæ xii die Aug. anno Regis nunc Caroli Secundi Angliæ, &c. xiv. &c. A. B. queritur versus C. D. de placito debiti; in cujus rei testimonium R. L. S. R. T. O. & S. D. quatuor legales homines ex ill. qui record. ill. interfuer. in plena curia sigill. sua separalit. apposuer. die & anno supradict. &c.

A. B. queritur versus C. D. de placito debiti xx l.

Remedy
for pro-
ceeding
after a
Pone.

That if a Plea be removed by Pone at the Instance of the Defendant, or by the Plaintiff, and afterwards they proceed in this Court in the Plea, and give Judgment, and award Execution, &c. then the Defendant, or he against whom the Judgment was given, and Execution awarded, shall have an Attachment against the Sheriff directed to the Coroner, to answer as well the King for the Contempt, as the Party his Damages, &c.

Of the Writ of Prohibition.

THE Writ of Prohibition is of the same Nature of a Recordare, and a Pone, but not much in use.

Of the Consultation, or Procedendo.

THese two Writs are both of one Nature, though the Writ of Consultation be obsolete, and the Writ of Procedendo slept up into its Plate: It lieth where a Cause hath been formerly removed by Pone or Recordare from this Court into the King's Bench, or
Common

Common Pleas, and for want of sufficient Cause of Removal is sent back again. Fitz. old Natura brevium 50.

The Nature of a Writ of false Judgment.

A Writ of false Judgment lieth where an erroneous Judgment is given in this Court (being no Court of Record) then the Party grieved by the Judgment may have this Writ, and remove all Process of the Suit into the Common Bench, and there it shall be examined; if it be found erroneous, the Judgment shall be reversed, and the Suitors of the Court who gave the Judgment amerced.

Note, That a Writ of False Judgment lieth not, but in a Court where there are Suitors; for if there be no Suitors there, the Record cannot be certified by them. F. N. B. 43. H. 8. Note.

Virtute hujus brevis mihi direct. Recordari feci loquelam quæ est in Com. meo una cum process. & judic. inter partes subscript. & eisdem partibus diem præfixi quod sint coram Justiciis. infrascript. ad diem & locum infra content. prout hoc breve exigit & requirit; quæ quidem loquel. cum process. & judic. superinde patet in quadam Schedul. huic brevi annex. The Return

Loquela per breve in Com. meo tent. apud Castrum Ebor. in Com. præd. die Lunæ xxiii die Aug. anno, &c. coram sect. ejusdem cur. tempore quo I. B. Ar. fuit Vic. Com. secundum consuetud. & privileg. ejusdem cur. a tempore cujus contrar. memoria hominum non existit usitat. & approbat. in eadem. The Schedule.

Ad hanc Curiam venit A. B. in propria persona sua & protulit hic in Cur. breve Dom. Regis nunc de Justic. quod quidem breve sequitur in hæc verba: Carolus Secundus Dei gratia Angliæ, &c. Vic. Ebor. salutem A. B. questus est nobis quod C. D. super ipsum eund. A. B. apud Castrum Eborum insult. fec. & ipsum verberavit, vulneravit, & male tractavit ita quod de vita ejus desperabatur & al. enormia ei intulit ad grave dampnum & nocumentum dicti A. B. ideo tibi præcipimus quod loquelam præd. audias & postea eas juste deduci fac. pro eadem ne amplius inde clamorem audiamus pro defect. Justitiæ. Teste meip. apud Westm. x die Aug. Anno Regni nostri xiv. Et inde inven. pledg. ad prosequend. loquel. præd. scil. J. Doe & R. Roe, Et super hoc dictus A. B. in loco suo posuit S. D. Attor. suum in loquel. præd. & per eund. Attor. suum petit process. superinde sibi fieri Et præcipitur per dict. I. B. Ar. Vic. Com. præd. omnibus & singulis ballivis suis conjunct. & divisim quod illi vel cor. aliquis justic. facerent idem C. D. ita quod sit & compareat ad prox. Com. tenend. apud Castrum Eborum die Lunæ xx die Septembris tunc prox. futur. Writ of Justices.

Warrant upon the Writ.

*Effoin.
de male
vener.*

tur. in eodem anno respondend. eidem A. B. in loquel. præd. Ad quem diem ven. præd. A. B. per Attor. suum præd. & obtulit se versus dictum C. D. in loquel. præd. Et ad tunc & ibidem ven. I. P. unus ballivorum in Com. præd. I. B. Vic. dict. Com. & retorn. dict. præcept. ei direct. ut dicit. servit. & execut. super eum & idem C. D. effoniavit quia venire non potuit usque ad prox. Com. tenend. apud Castrum præd. Ad quam quidem prox. Cur. videlicet. die Lunæ x die Octobris tunc prox. sequen. anno supradict. ven. præd. A. B. per Attor. suum præd. & se obtulit versus præfat. C. D. in loquel. præd. & præfat. C. D. ad tunc & ibidem in propria persona sua ven. ad respondend. eidem A. B. in loquel. præd. & loco suo posuit I. R. Attor. suum versus eundem A. B. in loquel. præd. A. C. per præd. Attor. suum de eadem Curia pet. quod dictus A. B. narraret versus ipsum super dictam loquelam suam & inde dictus A. B. per Attor. suum præd. narravit versus præfat. C. D. super loquel. præd. modo & forma sequent.

*Ebor. ff.
Narratio.*

A. B. Virtute brevis Dom. Regis de Justic. per S. D. Attor. suum queritur versus C. D. de placito transgr. & insult. pro eo quod præd. C. D. x die Octobris anno, &c. apud Castrum, &c. in & super eundem A. B. insult. fec. & ipsum verberavit, vulneravit, & male tractavit ita quod de vita ejus desperabatur & al. enormia ei intulit ad grave dampnum ipsius A. B. unde idem A. B. dicit quod dampnum habet ad valenc. xx l. & inde producit sectam. Unde ad eandem Curiam super requisitionem defendentis dies dat. iisdem partibus in loquel. præd. usque ad prox. Com. tenend. coram sectator. præd. die Lunæ xv die Novembris tunc prox. sequend. salvo descendente. &c. ad quem diem ad Cur. præd. coram sectator. præd. tent. apud Castrum Eborum præd. ven. tam præd. A. B. per Attor. suum præd. quam præfat. C. D. per Attor. suum præd. & ad tunc & ibidem præfat. I. B. Ar. ab offic. Vic. Com. præd. amot. fuit, & R. L. Ar. deb. elect. & intrav. in offic. Vic. Com. Ebor. præd. unde ad eandem Curiam super requisitionem partium, ulterior dies dat. eisdem partibus in loquela præd. usq; ad prox. Com. die Lunæ xiii die Decembris tunc prox. sequen. anno prædicto tenend. coram sectatoribus præd. salv. partibus, &c. ad quem diem ad eandem Curiam coram sectator. præd. tent. apud Castrum Eborum præd. ven. tam præd. A. B. per dictum Attorn. suum quam præd. C. D. per Attorn. suum præd. & præfat. C. D. per Attorn. suum præd. ven. & defend. vim & injuriam quando, &c. & idem Attorn. dixit quod ipse non est inform. per magistr. suum de aliquo respons. pro eodem C. D. eidem A. B. in loquel. præd. dand. per quod præfat. A. B. versus præd. C. D. reman. inde indefens. ob quod præfat. A. B. recuperare debet versus præd. C. D. dampna sua occasione transgr. & insult. præd. sed quia Cur. præd. incognit. existit que

*Empar-
lance.*

*Non sum
informatui.*

*Jury to
enquire
Damages.*

quæ dampna præfat. A. B. sustinuit ratione præmissor. Ideo ad prox. Com. tent. apud Castrum Eborum præd. in Com. præd. coram sc̃etatoribus præd. die Lunæ x Januarii tunc prox. sequend. anno præd. requisit. fuit per Sacram. I. W. R. S. S. G. M. L. T. P. &c. duodecim probor. & legalium hominum Com. præd. existen. in Cur. & in plen. Com. jurat. ad inquirend. quæ dampna præfat. A. B. sustinuit occasione transgr. & insult. & vulnerat. præd. dicunt super sacram. sua quod præfat. A. B. dampna sustinuit occasione præd. transgr. & insult. & vulnerat. ad decem libr. & pro mis. & custag. per ipsum in ea parte expend. ad duos denar. Ideo considerat. est per eandem Curiam quod præfat. A. B. recuperet versus eundem C. D. dampna & custag. præd. per Jurator. præd. in forma prædicta assessat. ac etiam quadragint. solid. per Cur. præd. eidem A. B. ex assensu suo pro incremento custag. sibi adjudicat. quæ dict. dampna & custag. attingunt ad xii l. ii d. Et præd. C. D. in mis. &c. In cujus rei testimonium, &c.

The Nature of an *Accedas ad Curiam*.

THIS Writ issues out of the Chancery, directed to the Sheriff, commanding him to go to such Court of some Lord or Franchise, or Hundred, a Court-Baron, or the like (being no Court of Record) where a Plaint is sued, or a false Judgment is supposed to be given in some Suit which hath been in the Court; and by this the Sheriff is there to make Record of the same Suit, in the Presence of the Suitors of the same Court, and four lawful Men of the County; and of this he is to make a Certificate into the Court above, under his Seal, and the Seals of four of the Suitors of the same Court at the Day appointed by the Writ. F. N. B. 71. Plowden 74. Finch. 444.

This Writ cannot be had without shewing some special Cause for the removing of it: as, that a Freehold is in Question there, or some Foreign Plea pleaded not triable in that Court, or such like. F. N. B. 70. 119.

The County-Clerk is to make a Precept upon the Writ in this Manner:

I. B. Ar. Vic. com. Ebor. Senescallo & Ballivo cur. Honor. de P. salutem Virtute brevis mihi direct. vobis mando quod assumptis vobiscum quatuor discretis & legalibus liberis tenentibus de comitat. præd. accedatis ad cur. præd. & in plen. cur. ibidem recordari facias loquelam quæ est in eadem curia sine brevi inter I. S. & G. M. de quadam transgr. super casum illat. per dictum I. S. eidem G. M. ut præfertur & quod Recordum illud mihi certificetis, ita quod idem habeam coram Justic. de Banco apud Westm. a die Sanctæ Trinitat. in quindecim dies sub sigillis vestris & sigillis quatuor legalium hominum

Ebor. ff.
Precept
upon an
*Accedas ad
Curiam.*

Accedas ad Curiam.

num ejusdem cur. ex illis qui Recordo illo interfuerunt & quod eundem diem partibus præfigatis, quod tunc sint ibi parat. in loquela præd. prout justum fuerit processur. Et habeas ibi nomina quatuor hominum præd. & hoc præcept. Dat. sub sigillo officii mei secundo die Junii Anno Regni Domini nostri Caroli Secundi Dei gratia Angliæ, Scotiæ, Franciæ & Hiberniæ Regis, Fidei Defensoris, &c. xiv.

Per Vic.

The Return Honor.
de P.

Cur. Baron. G. S. I. K. &c. tent. apud P. pro honore de P. xii die Junii Anno Regni Domini nostri Caroli Secundi Dei gratia Angliæ, Scotiæ, Franciæ & Hiberniæ Regis Fidei Defensor. &c. xiv.

The Plaintiff.

R. S. queritur versus L. N. de placito transgr. super casum ad dampnum xxx s.

Virtute hujus præcepti mihi direct. ad curiam præd. tent. die & anno præd. in plen. cur. ibidem Recordari feci loquelam unde interins sit mentio quæ loquel. patet superscript. & illud Record. retornavi sigillat. sigillo meo & sigillis prædictor. quatuor legalium hominum, qui eadem curia recordo illo interfuer. Et partibus infrascript. die præfixi in brevi specificat. quod tunc sint parat. prout justum fuerit processur. in loquel. præd. sicut interius mihi precipitur.

W. O. Seneschal.

I. H. T. H.

I. G. R. H.

} Suitors.

Record to
be deli-
vered in
Court.

Virtute hujus brevis mihi direct. in forma infrascript. accessi ad curiam infrascript. & in plena curia ill. Recordari feci loquelam infrascript. & Record. illud (prout patet in Scedul. huic brevi annex.) coram Justic. Dom. Regis habeo ad diem & locum infra content. sub sigillo meo & sigillis T. R. A. B. C. D. & E. P. quatuor legalium hominum com. mei ex illis qui Record. interfuerunt & partibus, &c.

Or thus, if the Record be not returned.

Virtute hujus brevis mihi direct. in propria persona mea assumptis mecum R. S. &c. quatuor probis & legal. Milit. com. mei accessi ad cur. Baron G. S. I. K. &c. tent. apud P. pro honore de P. loquelam infrascript. Recordari ad diem & locum infra content. prout interius mihi præcipitur unde festator. ejusdem cur. apud P. præd. in plen. cur. me infrascript. Vic. idem breve ibidem exequi vel quoad loquel. præd. aliquo modo

modo intermittere omnino denegaver. per quod execut. istius brevis facere non possum, &c.

It is a good Return for the Sheriff to say, That after the Receipt of the Writ, and before the Return thereof, that no Court was holden; and that also he required the Lord to hold his Court, and he would not, so as he could not execute the same.

*The Return of a Writ for the Election of a Coroner,
after the Death of another.*

AD. Com. meum tent. (tali die & anno) in pleno com. præd. virtute istius brevis de assensu ejusdem com. loco P. H. infra nominat. (qui diem clausit extremum) Elegi Coronat. viz. I. M. qui (prout moris est) Sacrament. præstitit corporale quod ipse ea faciet & conservaverit quæ ab officio Coronat. in com. præd. spectant. faciend. prout interius, &c.

The Return of the Writ of Exigent.

Virtute istius brevis mihi direct. ad com. meum Eborum tent. apud Castrum Eborum in com. Ebor. infrascript. die Lunæ, &c. anno, &c. infrascript. I. C. & cæteri defend. infra. nominat. (if there be above two in the Writ) primo exact. fuer. & non comparuer. ad com. meum Eborum ibidem tent. die Lunæ, &c. anno prædicto prædictis I. C. & cæter. defend. infra nominat. secundo exact. fuer. & non comparuer. ad com. meum Eborum ibidem tent. die Lunæ, &c. anno præd. præf. I. C. & ceter. defend. infra nominat. tertio exact. fuer. & non comparuer. ad Com. meum Eborum ibidem tent. die Lunæ, &c. anno præd. præf. I. C. & cæter. defend. infra nominat. quarto exact. fuer. & non comparuer. ad Com. meum Eborum ibidem tent. die Lunæ, &c. anno prædicto præd. I. C. & cæter. defend. infra nomin. quinto exact. fuer. & non comparuer. Ideo præd. I. C. & cæter. defend. infra nomin. per judic. IW. & W. R. Gen. Coronat. dict. Dom. Regis Com. præd. secund. legem & consuetudinem Reg. Domini nostri Regis Angliæ utlagat. sunt & quilibet eor. utlagat. est.

L. B. Ar. Vic.

Virtute istius brevis mihi direct. ad com. meum tent. apud Ebor. in com. Ebor. infrascript. die Lunæ, &c. anno infrascript. præd. I. R. infra nominat. primo exact. fuit & non comparuit, istud breve prout superius indorsatur mihi deliberat. fuit per I. B. Ar. nuper Vic. com. infrascript. prox. predecessor. meum in ejus exitu ab officio suo: & ad com. meum (as before.)

Or thus.

Istud breve sic superius indorsat. una cum brevi dict. Domini Regis de supersed. eidem annex. mihi liberat. fuit per I. B. Ar. nuper Vic. com. præd. prox. predecessor. meum, &c.

Outlawry returned against a Woman.

Ideo secundum legem & consuetudinem Angliæ. præd. B. D. waviatur.

Defect of
the Coroner.

Virtute, &c. ad com. meum tent. die Lunæ, &c. eodem anno, &c. infra script. præd. I. C. quinto exact. fuit & non comparuit & pro defectu M. B. & R. C. Coronat. com. præd. ulterius inde prosequi non potui.

Defect of
the County

Virtute, &c. & ad com. meum, &c. & quod non fuer. plures comitat. in com. præd. tent. a die receptionis hujus brevis præd. usq; ad diem retorn. ejusdem per quod nihil actum est ad præsens.

Or thus.

Superiorem

Et ideo in executione hujus brevis ulterius faciend. nihil act. est.

Virtute, &c. ad com. meum præd. tent. die Lunæ, &c. anno, &c. infra script. præd. C. D. quarto exact. fuit & comparuit, & protulit mihi breve Dom. Regis de supersed. huic brevi annex. per quod ad executionem hujus brevis ult'ius faciend. omnino supersed.

Or thus.

Prout in præd. brevi Domini Regis, &c. de supersed. mihi præcipitur.

Where one
renders
himself,
and the
rest appear
not.

Virtute, &c. ad com. meum Eborum ibidem tent. &c. præd. I. H. & cæter. defend. infra nominat. quinto exact. fuer. ad quem diem præd. I. H. comparuit & se reddidit prisonæ Dom. Regis, &c. de Castro Eborum cujus corpus coram Justic. infra script. ad diem & locum infra content. parat. habeo prout interius mihi præcipitur sed cæter. defend. infra nominat. non comparuer. ideo, &c. *as before they are outlawed.*

Et

Et preter I. S. qui se reddidit prisonæ, &c. Castri Eborum
cujus quidem corpus coram Justic. infrascript. ad diem & lo-
cum infra content. parat. habeo prout hoc breve exigit & re-
quirit: Et preter I. C. qui mortuus est & non comparuit ideo
prejudic. &c. & pred. T. C. waviat. est in present. T. B. &
F. W. Coronat. &c. Com. pred.

AdCom. &c. 1, 2, 3, 4. exact. fuit & comparuit & red-
didit se prisonæ, &c. Castr. Ebor. ubi tam languidus est,
quod propter timorem mortis ejus coram Justic. infrascript.
ad diem & locum infra content. habere non possum.

The Return of the Writ of Proclamation.

Virtute hujus brevis mihi direct. ad Com. meum Ebor. tent.
apud Castrum Eborum iufcript. die Lunæ, &c. anno, &c.
infrascript. primo Proclamari feci & ad Com. meum Eborum
tent. apud Castrum Eborum pred. in dicto Com. Eborum die
Lunæ, &c. anno, &c. infrascript. secundo Proclamari feci &
ad General. Session. pacis tent. apud Skipton pro le West-
riding ejusdem Com. infrascript. die Martis, viz. x die Sept.
pred. anno, &c. infrascript. publice Proclamari feci quod I. C.
& omnes al. defend. infra nominat. seipsos reddunt infra no-
minat. vic. London, ita quod iidem Vic. corpora eorum habe-
ant coram Justic. infrascript. ad diem & locum infra content.
prout hoc breve exigit & requirit.

The Manner of proceeding upon the Writs of
Recordari, Pone, Writ of False Judgment, &c. in
the Common Pleas, after the Removal out of
the County-Court.

YOU must repair to the County-Clerk, or his Deputy, and de-
mand a Return of the Writ of Recordare or Pone.

If upon the Return the Defendant appear, then must you declare;
and when your Declaration is drawn, enter it upon a Roll in one of
the Prothonotaries Offices, and see that it be docketted together with
the Number of the Roll.

If the Writ be returnable in the Beginning of a Term, (especially
in issuable Terms) the Defendant is to answer the same Term, unless
the Defendant hath Imparance to plead until the following Term.

Rules to answer must be entred in the Remembrance in the Protho- Pleadings.
notaries Office, entring in the Margent or over the Head of the Rule,
the usual Rule, That if the Defendant do not plead (within some
few Days) let Judgment be entred. And if no Plea be brought

in within the Time, then may you sign Judgment with the Prothonotary in Default of Answer.

Procedendo. If the Defendant appear not upon the Return of the Writ, then may the Plaintiff have a *Procedendo* to carry the Cause back again into the County-Court.

Non proiec. If the Plaintiff's Attorney appear and declare not against the Defendant, upon his Appearance, within a reasonable Time of the Term; then may the Defendant's Attorney enter a Rule in the Bill of Pleas against the Plaintiff to declare; and if he declare not, then may he enter a *Non proiec.* and sign it with the Prothonotary, and Costs given for the unjust Exaction; but if the Plaintiff will not retain an Attorney upon the Removal nor declare, then it is his own Delay, and he should be non-suited in that Case.

If the Defendant plead the General Issue, then must the Attorney for the Defendant set his Hand to the Docker-book of the Plaintiff's Attorney, who draws up the Plea, makes a Copy of the Issue, and delivers it to the Defendant's Attorney; and then they usually give Notice of Trial.

If the Defendant plead specially, he is to bring it to the Plaintiff's Attorney, under a Serjeant's Hand; and if the Plaintiff reply specially, it must likewise be under the Serjeant's Hand: The like upon a Demurrer to a Declaration, and Rejoinder in Demurrer.

How to proceed to Trial by Nisi prius. If your Trial be by *Nisi prius*, at the Assizes in the County, and the Jury appear not full upon the Panel, then may you require a *Decem Tales de Circumstantibus*, viz. Ten of the Stangers by to fill up the Jury, or more, or less, as is requisite; which Tales must be mentioned upon the Return of the Postea, and the Judgment upon it in the Issue-Roll.

Ven. fac. Having entred your Declaration, with the Issue joined, in the Prothonotaries Office, then make out a *Venire facias* upon your Issue, and get it signed with the Prothonotary, and seal it; then get it returned by the Sheriff of the County where the Action is laid, and upon the Return of it, sue forth an Habeas Corpora, and deliver the same to the Sheriff to summon the Jury, and get it returned at the Assizes.

In suing forth your *Nisi prius*, ingross your Record, according to the Copy of the Issue made up, and the Entry of it upon the Roll in the Prothonotaries Office, and examine it; if it be upon an Issue joined the same Term, and the Prothonotary's Hand must be to it, then carry the same to the Clerk of the Treasury, to sign and make up the Record.

If the Issue was entred of a Term past, then must you deliver the Paper-Book of the Issue to the Clerk of the Treasury, to examine the same by the Roll, and to make up the Record, which must be signed by him; then must it be sealed by him, and then deliver it together with the Habeas Cor. Jur. returned by the Sheriff to the Clerk of the Assizes for that County where it is to be tried, paying the Judge's Marshal.

Then retain the Counsel, and have your Witnesses ready for the Trial.

The Trial being had, and Verdict passing for your Client, the next Term you are to call of the Clerk of the Assize for a Return of the Postea, and thereupon the Prothonotary will assess Costs, and cause Judgment to be entred, upon which you may have Execution by Capias ad Satisfaciendum, Fieri facias or Elegit, &c. according as you desire, and as the Nature of the Action brought doth allow or require.

Note, That a Capias ad satisfaciendum is only against the Body, who must be imprisoned until Satisfaction be made; and if the Defendant cannot be found, the Plaintiff cannot have another Execution. 20 E. 2. For he may chuse at the first, whether he will have a Capias or an Elegit; but if he takes the Capias, he shall not have an Elegit afterwards, nec e converso. 15 H. 4. 15.

The Writ of Fieri facias is only against the Goods; as Leases for Years, or immoveable Goods; as Corn, Household-stuff, Cattle, Apparel, Money, Plate, &c. and it ought to be sued out within the Year after Judgment. Co. 3. 13. After the Fieri facias a Man may have an Elegit; but on the contrary, after the Elegit he cannot have a Fieri facias, because the Elegit is of a higher Nature than the Fieri facias.

An Elegit is a Writ whereby the Plaintiff is to have Execution of the half of all the Defendant's Lands and Chaitels (except Oxen and Beasts of the Plough) till the Debt and Damages be wholly levied and paid to him; and during the Term he is Tenant by Elegit. Vide Terms of the Law.

The Proceedings upon the Writ of False Judgment.

YOU must call of the County Clerk for the Return of the Writ, together with the whole Record of all the Proceedings from the Original and Beginning of the Cause in the County Court.

The Writ being returned, you must assign Errors, and take Copies thereof, and thereupon sue forth a Scire facias to the Plaintiff in the Action to hear Errors; to which the Plaintiff may appear, and plead the common Plea, which is, That the Action nor Proceedings in the County Court are nothing erroneous. Then must the Defendant endeavour to get a Rule, or Day given for the arguing of the same Errors.

But if the Defendant doth delay, and doth not call for a Return of the Writ, nor proceed, then the Plaintiff may sue forth another Scire facias against the Defendant to shew cause why he should not have Execution upon the Judgment had in the County Court; and if at the Return of the second Scire facias Errors be not assigned, then Judgment is confirmed in that Court into which the Writ is returnable.

If Errors be found and allowed to be sufficient and good, then is the said Judgment to be reversed and made void: But if Errors be not found good, then is the Judgment in the County-Court affirmed, and further Costs for Delay of Execution allowed to the Plaintiff, who may presently sue forth Execution out of that Court into which the Writ was returned against the Defendant.

Plaintiff
may begin
de novo.

Note, That if the Judgment be reversed and made void, yet notwithstanding it takes not away the Plaintiff's Cause of Action, for he may commence a new Action against the Defendant for the same Cause.

The Nature of a Writ of False Judgment, and the Manner and Form of drawing up Records upon a Writ of False Judgment.

Record
upon a
Writ of
False Judgment.

PRECEPTUM est Vic. quod si A. B. eundem Vic. fecerit loquum de clamore suo prosequendo tunc in plen. Com. suo recordari faciat loquelam quae fuit in dicto com. per breve Dom. Regis nunc inter W. B. & eundem A. B. de quadam transgr. super casum eidem A. B. per eundem W. B. commiss. &c. Et unde idem A. B. questus est quod iudic. falsum sibi fact. fuisset in eodem com. & quod habeat hic ad hunc diem, scilicet, Octab. Pur. beatae Mariae sub sigillo suo, & per quatuor legales Milites ejusdem com. qui Recordo illi interessent & quod habeat hic Summonitor. nomina quatuor Militem & hoc breve, & al. breve.

Et nunc hic ad hunc diem ven. tam pred. A. B. per S. D. Attorn. suum quam dictus W. B. summonit. &c. per J. S. Attorn. suum & Vic. scilicet, Geo. Mar Ar. modo retornavit quod pred. A. B. invenisset eidem Vic. pleg. de dicto brevi suo prosequend. scilicet, Jo. Doe & Rich. Roe, & quod ipse virtute brevis illius sibi direct. ad com. suum tent. apud Caste. Eborum in com. pred. x die Maii Anno Regni Domini nostri Caroli Secundi nunc Regis Anglie, &c. xiii eandem loquelam recordari fecit quae fuit in dicto com. inter eundem A. B. & W. B. & Record. ejusdem loquel. coram Justic. hic ad hunc diem paratum habet sub sigillo, & sigillis H. M. & quatuor legatum Militem dict. com. ex illis qui Recordo interfuerunt & quod summonuit eundem W. B. quod sit hic ad hunc diem auditur. Record. illud per R. S. & F. L. pront per dictum breve sibi preceptum fuit, &c. quod quidem Record. sequitur in hac verba.

Justicier.

Carolus Secundus Dei, &c. Vic. Eborum salutem Questus est nobis W. B. quod A. B. de C. in Com. tuo *Husbandman* quamvis pred. W. B. verus & fidel. subditus noster, & tanquam verus & fidel. subdit. noster a tempore Nativitat. sue huc-

hucusque vixerit & se gesserit, & bonorum nominis & fame apud quamplurim. subdit. nostrorum not. fuit habit. & reputat. præd. tamen A. B. præmissorum non ignarus, sed machinans & malitiose intendens ipsum W. B. non solum de bonis nomine, fama & estimatione suis totaliter destruere verum etiam eundem W. B. in perturbationem, vexationem & infamiam apud vicinos suos & quamplurimos al. fidel. subdit. hujus Regni nostri inducere hæc falsa ficta & scandalosa verba de eodem W. B. apud C. In præsen. & audit. diversorum fidel. subdit. hujus Regni nostri dixit, retulit, & alta voce propalavit in hæc Anglicana verba sequent. viz. W. B. (eund. W. B. innuend.) *bath stoln my Horse*: quorum quidem falsor. & scandalosorum verborum dictionis publicationis & propalationis pretextu præfat. W. B. non solum in bonis nomine & fama suis læsus est ver. etiam in actionibus & negotiis suis cum honestis personis quibus idem W. B. emendo, vendendo & licite barganizando antea usitat. læsus & deteriorat. existit ad grave dampnum ipsius W. B. &c. Ideo præcipimus tibi quod loquelam illam audias, & postea eandem deduci facias ne amplius inde clamorem audiamus pro defectu Justic. Teste meipso, &c.

Placita tent. apud Castr. Ebor. in Com. Ebor. die Lunæ 2 die Junii, anno Regis Caroli Secundi, xiii. coram A. B. C. D. E. F. & G. H. Sectatoribus ejusdem Curie.

AD hanc curiam W. B. per P. P. Attorn. suum queritur versus A. B. de placito transgr. super casum, pro eo, videlicet, quod cum idem W. B. bonus verus & fidelis subdit. Dom. Regis nunc & al. Regum Angl. a tempore Nativit. suæ hucusq; gubernavit & se gessit & bonorum nominis fame, credent. & reputationis honeste cum bonis & grandævis hominibus tam vicin. suis quam al. fidel. subdit. Dom. Regis nunc habit. not. existimat. & reputat. absq; aliqua falsitate furto perjur. felon. fraude sive macula cunctunque culpæ sive criminis nocivi immaculat. & intact. per totum tempus predictum gesserit & gubernavit; præd. tamen A. B. præmissorum non ignarus ex mera nequissima malitia præcogitata intendens nomen & famam ejusdem W. B. lædere detrahare pejorare obtenebrare & totaliter destruere ac etiam in perturbationem vexationem & infamiam traducere & inducere quæd. falsa & scandalosa verba & mendacia de eodem W. B. octavo die Aprilis anno Regni Caroli Secundi nunc Regis Angliæ xiii apud, &c. & infra libertat. & Jurisdiction. hujus Cur. in present. & audit. quamplurimorum fidel. subdit. dict. Dom. Regis, dixit retulit & propalavit, videlicet, W. B. (eundem W. B. innuend.) *bath stoln my Horse out of my Close, which I will prove*: quorum

quidem falſorum & ſcandalorū verborū diſtionis & propalationis prætextu idem W. B. non ſolum in bonis nomine & fama læſus eſt, verumetiam in negotiis ſuis perficiend. cum honeſtis perſonis omnibus diſtis W. B. in emend. vendend. & licite barganizand. multum impedit. ac etiam quaſdam al. perſon. & ſubdit. diſt. Dom. Regis. nunc ea occaſione ſeipſos a conſortio ejuſdem W. B. ſubreperunt & conſortium cum eo habere penitus recuſaverunt & adhuc recuſant; unde, &c. ad damnum 39 l. & inde prod. ſectam, &c. Et præd. A. B. per S. D. Attorn. ſuum ven. &c. Et dic. quod præd. W. B. actionem ſuam prædiſtam verſus eum habere non debet quia dic. quod ipſe non eſt culpabilis de diſtion. & propalation. verborum in narration. præd. ſuperius ſpecific. nec de aliqua parte eorum modo & forma prout præd. W. B. ſuperius verſus eum quæritur Et hoc, &c. Ideo ſecundum conſuetudinem præcept. eſt Balliv. Wapentag. de Ouze & Dar quod ven. fac. coram Senſchal. ejuſdem Cur. ad proxim. Cur. Com. mei præd. (tali die) xii, &c. Et quod tunc habeat ibi idem præcept. una cum panel. de nominibus Jurat. præd. Ad quam Curiam Com. tent. apud Caſtrum Eborum præd. ſecundum conſuetudinem coram ſectatoribus ejuſdem Cur. die Lunæ ſecundo die Aprilis ven. tam præfat. W. B. per Attorn. ſuum præd. quam idem A. B. per Attorn. ſuum, &c. ac idem Balliv. Wapentag. præd. præcept. ſibi direct. retornavit in omnibus execut. una cum pappella de nominibus Jurator. præcept. annex. ſcilicet in eadem pappella nominantur L. M. N. R. &c. ad faciend. Jur. inter partes præd. in loquela præd. qui ad dicend. veritat. præmiſſor. elect. triat. & Jurat. dicunt ſuper ſacramentum ſuum quod præd. A. B. eſt culpabilis de diſtione & propalatione diſtorum verborum in narratione præd. ſpecific. & aſſidunt dampna diſt. W. B. occaſion. diſtionis eorundem verborum ultra mil. & cuſtag. per ipſum circa ſectam ſuam in hac parte expenſi ad 4 l. 5 s. & pro iſdem miſis & cuſtag. ad octo denar. Ideo conſ. eſt per eandam curiam quod diſtus W. B. recuperet verſus eundem A. B. dampna ſua præd. per Jur. præd. in forma præd. aſſeſſa & etiam tres ſolid. & octo denar. pro miſis & cuſtag. ſuis, quæ quidem damna in toto attingunt ad 5 l. 17 s. 4 d.

*In cujus rei teſtimonium ſigill. Senſchal. cur. præd. eſt appoſit.
Dat. apud caſtr. Ebor. xii die Martii, Anno Regis Caroli
Secundi Anglia, &c. xiv.*

*Errata
ſigæd.*

Et unde idem W. B. pet. quod diſtus A. B. oſtendat cur. hic & aſſignet defectus ubi falſum iudicium fact. eſt in dicta loquela ſi quodvis ſibi fact. fuerit: Unde præfat. A. B. dic. quod idem record. viſioſum & valde defectivum exiſtit ſcilicet, in eo quia non liquet per Record. coram quibus cur. prima fuit tent. ac in hoc quod præd. W. B. in Narratione ſua queſtus eſt

ſe

se damn. habere & deterior. fuisse ad valenc xl l. cum per Leges hujus Regni eadem curia placita non potest tenere de xl s.

In hoc etiam quod per idem Record. patet quod præd. W. B. comparuit per P. P. Attorn. suum & idem A. B. comparuit per S. D. Attorn. suum sed in Recordo nulla mentio fit ullius Warran. Attorn. pro eodem W. B. aut pro eodem A. B. in loquela prædicta. Et idem A. B. dic. quod per multos varios modos in Cur. Com. præd. fals. judic. in loquel. præd. sibi fact. & unde pet. quod dictum judicium pro dictis defectibus & al. in eodem Record. existen. tanquam fals. & erron. adnihiletur & omnino pro nihilo habeatur: Et quod idem A. B. ad præd. § l. 17 s. 4 d. quæ dictus W. B. virtute judicii prædicti pro dampnis suis occasione præmissorum versus eum recuperavit & ad omnia quæ ipse occasione ejusdem judicii amisit, restituitur, &c.

Et idem W. B. dic. quod in recordo prædicto nullus est error, nec eidem A. B. in eadem curia Com. falsum factum est judicium in loquela præd. & pet. quod Justic. hic procedant ad examinand. idem Record. & ad reformand. & corrigend. falsum judicium, si quodvis falsi in eo inveniatur, probatur, vel manifestatur. Et quia Justic. hic seipso aduiscare volunt de & super præmiss. antequam ulterius procedant dies dat. est, &c. in Octab. Pur. ad audiend. inde quid cur. de hoc & super præmissis considerabit, quia Justic. adhuc inde nondum, &c. Ad quem diem ven. hic tam præfat. A. B. quam præd. W. B. per Attorn. suos præd. Et quia Justic. hic ulterius seipso aduiscare volunt de & super præmiss. præd. priusquam judicium inde reddant dies ulterius dat. est, &c. in Mens. Pasch. ad audiend. inde quid cur. inde de & super præmiss. præd. considerabit quia Justic. hic inde nondum, &c.

If any Errors and Defects be found in the Proceedings, then will the Judgment be reversed, and a Writ of Restitution awarded.

Præcept. est Vic. si A. B. & C. D. invenient securitat. Vic. Upon a de clamore suo prosequend. tunc in plen. com. suo recordari Replevin. faciat loquelam quæ fuit in eadem curia sine brevi Domini Regis inter E. F. & eundem A. B. & C. D. de averiis ejusdem E. F. capt. & injuste detent. &c. Et unde iidem A. B. & C. D. questi sunt fals. sibi factum fuisse judicium in eadem Curia. Et quod habeat hic ad hunc diem, scilicet in Octab. Hill. record. illud sub sigillo suo & sigillis quatuor legalium Militum qui Recordo illi interfuerunt; & quod summoneat per bonos summonitores præfat. E. F. quod sit hic ad hunc diem, ad audiend. Record. &c.

Et modo hic ad hunc diem ven. tam præd. A. B. & C. D. per S. D. Attorn. suum quam pred. E. F. per P. P. Attorn. suum & Vic. scilicet G. M. Armig. nunc retornavit quod iidem A. B. & C. D. eidem Vic. invenit pled. ad prosequend. dictum breve, scilicet Jo. Doe & Rich. Roe, & quod summonivit eundem E. F. quod sit hic ad hunc diem per I. R. & I. S. probos, &c.

Vic. etiam retornavit quod ipse virtute ejusdem brevis sibi direct. in pleno Com. tent. apud Castrum Eborum in Com. præd. xii die Aprilis ult. præterit. loquelam predictam recordari fecit & habet Record. hic & ad hunc diem sub sigillo suo & sigillis L. M. M. R. proborum & legalium Militum ejusdem Com. ex illis qui Recordo illi interfuerunt prout per breve illud ei præcept. fuit tenor cujus Record. sequitur in hæc verba.

Ebor. II.

Memorandum quod Cur. tent. &c. xii die Aprilis anno Regni Regis nunc Caroli Secundi, &c. coram G. M. apud Castrum Eborum in Com. Ebor. ven. E. F. per P. P. Attorn. suum & queritur versus A. B. & C. D. de placito quare averia ejusdem E. F. ceperunt & ea injuste detinent contra vad. & pleg. quousq; &c. Et invenit pleg. eidem E. F. de clamore suo prosequend. ac etiam de averiis retornand. si retorn. inde per legem adjudicetur, scilicet, Jo. Doe & Rich. Roe, & ad tunc & ibidem pet. debit. legis process. inde faciend. versus A. B. & C. D. &c. Ideo secundum consuetudinem in Com. præd. a tempore cujus contrar. memoria hominum non existit usitat. & approbat. ex parte Dom. Regis nunc præcept. est I. S. Balliv. Wapentag. de W. & un. Ministr. ejusdem Vic. com. præd. quod ipse secundum istam consuetudinem ponet per vad. & salvos pleg. eosdem A. B. & C. D. quod sint coram me dicto Vic. ad proxim. Com. præd. videlicet apud Castrum Eborum xii die Aprilis anno, &c. supradicto tunc proxim. sequend. tenend. ad respondend. eidem E. F. in placito præd. idem dies dat. eidem E. F. tunc versus eosdem A. B. & C. D. ad prosequend. idem placitum. Ad quem diem hic viz. ad proximam Curiam Com. mei tunc tent. apud pred. Castrum Eborum ven. præd. E. F. per Attorn. suum pred. eodem xii die Aprilis & idem I. S. Balliv. Wapentag. pred. retornavit præceptum predictum sibi in forma pred. direct. in omnibus servit. & execut. scilicet quod ipse virtute ejusdem præcept. attachiavit eosdem A. B. & C. D. per pleg. viz. Jo. Den & Ric. Fen, quod hic sint ad hunc diem, scilicet eodem xii die Aprilis in forma predicta prout per idem præceptum ei præcept. fuit.

Et

Et idem A. B. & C. D. in plena Curia ibidem exacti non ven. sed defalt. fecer. Unde idem E. F. per Attorn. suum præd. pet. ulter. process. faciend. super dictam loquelam versus eod. A. B. & C. D. & habet, &c.

Ideo secundum consuetudinem cur. com. præd. præcept. est eidem I. S. Balliv. Wapentag. de W. & un. Ministr. com. præd. quod secundum consuetudinem cur. illius, distringat eosdem A. B. & C. D. per omnia bona & catalla sua in balliva sua ita quod neq; &c. quousq; &c. ita quod fiat coram me eodem Vic. ad prox. com. meum tenend. apud dict. Castrum Eborum scilicet x die Maii anno prædicto tunc prox. sequend. ad respondend. eidem E. F. in eadem loquela idem dies dat. eidem E. F. &c. Ad quem quidem prox. Com. præd. hic scilicet apud dictum Castrum Eborum eodem x die Maii anno supradicto tunc tent. ven. tam E. F. per P. P. Attorn. suum præd. quam dict. A. B. & C. D. per I. S. Attorn. suum & præd. A. B. & C. D. obtulerunt seipsos versus dict. E. F. in eadem loquela : & idem E. F. inde questus est & narravit versus præd. A. B. & C. D. de placito quare ildem A. B. & C. D. 4 Marcii anno, &c. apud T. infra Jurisdictionem hujus Cur. in quodam loco vocat. le Hayes averia, viz. sex Vitulos Anglice *Culvers* ipsius E. F. ceperunt & injuste detinuerunt contra vad. & pleg. quousq; &c.

Distress
awarded.

Unde ipse tunc dixit quod deteriorat. extitit & dampnum habuit ad valenc. 39 s. 11 d. & inde produc. sectam, &c.

Et unde idem E. F. tunc & ibidem in loco suo posuit enndem P. P. Attorn. suum versus eosdem A. B. & C. D. ad lucrand. vel perdend. in eadem loquela (*Here must likewise be a Warrant of Attorney for the Defendant*) Et unde idem A. B. & C. D. per S. D. Attorn. suum præd. tunc in eadem Curia pet. licentiam interloquendi hic, usq; prox. Curiam com. coram dicto Vic. viz. xv die Maii anno supradicto tunc prox. sequend. tenend. apud Castrum Eborum & tunc ad respondend. &c. Et eis conceditur, &c. idem dies dat. eidem E. F. hic, &c. Ad quam quidem prox. com. coram dicto Vic. com. præd. hic scilicet apud Castrum Eborum præd. xv die Maii anno supradicto ven. tam dictus E. F. quam A. B. & C. D. præd. per prædictos Attorn. suos Et dict. est dicto Attorn. præd. A. B. & C. D. per Cur. hic quod respondeat prædictis A. B. & C. D. magr. suis eidem E. F. in loquel. præd. Et idem Attorn. pro dictis magr. suis nihil dic. in Bar. (sicut aliis) per quod dictus E. F. dampna sua versus A. B. & C. D. occasione captionis & injustæ detentionis averiorum suorum præd. recuperare debet : sed quia incognit. existit Cur. hic quæ dampna idem E. F. sustinuit occasione præmissor. præcept. est dicto I. S. tunc Balliv. Wapen-

Wapentag. de W. præd. & un. Ministr. Cur. Com. præd. quod ven. fac. coram dicto Vic. ad prox. Com. præd. scilicet xv die Maii, anno supradicto apud Castrum Eborum præd. tunc prox. sequen. tenend. duodecim probos & legales homines de Vicin. de S. per neutr. part. suspecti. ad inquirend. super sacram. suum quæ dampna idem E. F. sustinuit tam occasione captionis & injustæ detentionis averiorum præd. quam promissis & custag. per ipsum circa sectam suam in hac parte expens. idem dies dat. eidem E. F. hic, &c.

Ad quem quidem prox. Com. eodem xv die Maii anno prædicto coram dicto Vic. Com. præd. tent. ven. idem E. F. per Attorn. suum præd. & idem I. S. Balliv. Wapentag. prædict. præceptum suum inde non misit. Ideo sicut prins præcept. est præfat. I. S. Balliv. &c. quod ven. fac. hic ad prox. Com. coram eodem Vic. Com. præd. scilicet xii die Aprilis anno supradicto apud Castrum Eborum præd. tenend. xii, &c. ad inquirend. &c. in forma præd. &c.

Ad quem diem, scilicet, xii die Aprilis præd. coram eodem Vic. Com. præd. ven. præd. E. F. per Attorn. suum prædict. Et idem I. S. Balliv. &c. & un. Ministr. ejusdem Cur. retornavit coram eodem Vic. dictum præcept. de ven. fac. in omnibus servit. & execut.

Et unde Jurat. inde impannellat. & exact. ven. & ad inquirend. in forma præd. jurat. & onerati dicunt super sacram. suum quod præd. E. F. ratione captionis & injustæ detentionis averiorum præd. dampna sustinuit ultra miss. & custag. per ipsam circa sectam suam in hac parte exposita, ad xxx s. & pro eisdem missis & custag. ad xii d. Ideo considerat. est per Cur. hic quod præd. E. F. recuperet versus eosdem A. B. & C. D. dampna sua præd. per Jurat. præd. in forma præd. assessat. ac etiam xxvi s. eidem E. F. per Cur. hic pro præd. missis & custag. ex assensu suo de incremento adjudicat. quæ quidem dampna in toto attingunt ad 57 s. & iidem A. B. & C. D. in miser. &c.

Unde præcept. fuit eidem I. S. Balliv. Wapentag. de W. præd. quod de bonis & catallis eorundem A. B. & C. D. in Balliva sua fieri fac. dampna præd. & quod denar. habeat coram Vic. præd. ad proxim. Com. suum apud Castrum Eborum tenend. scilicet x die Marcii, anno præd. ad reddend. præfat. E. F. pro dampnis suis præd. Unde idem E. F. pet. quod prædict. A. B. & C. D. assignent & narrent Cur. quid vel in quo falsum iudicium sibi fact. est, si quid probari liquet, &c.

Et super hoc iidem A. B. & C. D. dicunt quod dict. Record. vitiosum & quamplurimum defectivum existit in hoc scilicet quod per idem Record. patet quod eadem averia capt. fuer.

xv die Januarii, anno supradicto & quod Loquela inde levata fuit ad Com. Vic. xix die Decembris anno supradicto sic quod loquela illa levata fuit ante captionem averior. præd. Ac etiam in hoc, quod per Record. illud patet quod Com. præd. tent. fuit coram vic. com. præd. cum eadem Curia tenuisse debet coram fectator. ejusdem Curia ita quod eadem loquela levata fuit coram non Judice & Process. inde adjudicat. sine ullo War-ranto in Lege Et sic iidem A. B. & C. D. dicunt quod in Com. præd. fals. judic. sibi fact. fuit in loquela præd. & petunt quod Judic. præd. pro erroribus illis & aliis in eodem Recordo & process. existen revocetur, adnihiletur & penitus pro nihilo habeatur; & quod ipsi omnibus quæ occasione judicii præd. amiser. restituantur, &c.

Præcept. fuit Vic. quod si A. B. securum fecerit Vic. præd. de clamore suo prosequend. quod tunc assumpt. secum quatuor discret. & legalibus Militibus Com. præd. in propria persona sua accederet ad Curiam Honor. de P. & in plena Curia ibidem recordari fac. loquelam illam quæ fuit in eadem Curia Domini Regis inter C. D. & eundem A. B. in quodam placito trans-gressionis super Casum eidem C. D. per eundem A. B. illata ut dicitur: Unde. idem A. B. queritur falsum sibi factum fuisse judic. in eadem Curia & quod habeat ibi Record. ad hunc diem scilicet Octab. Hill. sub sigillo suo & per quatuor legales ho-mines ejusdem Com. ex illis qui recordo illi interfuer. & quod summoneat per bonos summonitores eundem C. D. quod hic sit ad audiend. Record. illud.

A Record
upon an
Accedas ad
Curiam
upon false
Judgment.

Et quod habeat tunc hic nomina quatuor Militum, & istud breve, &c. & modo ad hunc diem hic scilicet Octab. Hill. ven. ram præfat. A. B. per S. D. Attorn. suum quam præd. C. D. per P. P. Attorn. suum.

Et Vic. scilicet G. M. Ar. nunc retornavit quod idem A. B. invenit eidem Vic. plegios de clamore suo prosequendo Jo. Doe & Rich. Roe & quod præfat. C. D. sum. fuit, quod hic sit ad hunc diem per Jo. Den. & Rich. Fen; & quod ipse virtute ejusdem brevis sibi direct. secum assumpsit I. S. W. P. I. H. & W. W. quatuor discret. & legales Milites Com. præd. & in propria persona sua accessit ad Curiam præd. tent. apud P. in Com. præd. xv die Octobris, anno Regis nunc xiv & in plena Curia Recordari fec. Record. hic ad hunc diem habet sub sigillo suo & sigillis quatuor legalium hominum præd. qui Recordo illi interfuer. prout per idem breve sibi præcept. fuit ad re-spondend. C. D. in loquela præd. unde idem A. B. ad eandem Curiam in loco suo posuit S. D. Attorn. suum in loquela præd. Et præd. C. D. ad eandem Curiam per Attorn. suum præd. questus est versus eundem A. B. pro eo videlicet, quod cum idem C. D. ultimo die Decembris anno præd. apud W. præd.

&

& infra jurisdictionem Cur. pred. possessionat. fuit de una pec. panni lanei, Anglice *Woolen Cloib*, contin. undecim ulnas, precii xxxiv s. ut de bonis & catallis suis propriis.

Et sic inde possessionat. existen. idem C. D postea eandem preciam panni e manibus & possessionibus suis casualiter amisit, quæ quidem pec. panni postea scilicet xii die Februarii tunc proxim. sequen. ad manus & possession. dicti defendentis per inventionem devenit, pred. tamen defendens dictam pec. panni propr. pec. panni esse querentis sciens & ei de jure spectare & pertinere & machinans & intend. eund. querent. de ead. pec. panni callide & subdole decipere & defraud. eandem pec. panni licet ad hoc faciend. tertio die Martii anno suprad. apud, &c. requisit. fuit non deliberavit, sed eandem pec. panni postea, scilicet xviii die Martii tunc proxim. sequen. apud W. pred. infra jurisdictionem hujus Cur. pred. ad usum suum proprium convertit & disposuit ad dampnum dicti. queren. xxxix s. Et inde produc. sextam, &c. Et dictus defend. ad eandem Curiam pet. licentiam interloquend. usq; proxim. Cur. & habet, &c. Idem dies dat. est dicto querenti tunc ibidem, &c. Ad quam proxim. Cur. tent. infra dictum Honor. de P: xxvi die Maii tunc prox. sequen. ven. tam dicti. querens quam pred. defendens per Attorn. suos pred. & idem defend. pet. ulterior. licentiam interloquend. hic usq; prox. Cur. infra dictum Honor. tenend. & habet, &c. Idem dies datus est dicto querenti tunc ibidem, &c. Ad quam quidem proxim. Cur. tent. infra Honor. pred. xxvi die Maii tunc prox. sequen. ven. tam idem quer. quam idem defend. per Attorn. suos pred. & super hoc dictus defend. pet. ulterior. licent. interloquend. usq; proxim. Cur. Honor. pred. tenend. & habeat, &c. Idem dies datus est dicto queren. tunc ibidem.

Ad quam quidem Cur. tent. infra dicti. Honor. die, &c. tunc proxim. sequen. ven. tam dictus quer. quam pred. defend. per Attorn. suos pred. & idem defend. actunc defend. injur. quando, &c. Et dixit quod ipse in nullo fuit culpabil. de premissis superius super ipsum imposuit. prout pred. querens per Narrationem suam pred. versus eum questus est Et de hoc pon. se super patriam & pred. quer. similiter. Unde hunc precept. fuit Balliv. Honoris pred. quod venire fac. ad Curiam Honor. pred. tenend. xii liberos & legales homines Honor. pred. ad triand. exit. pred. superius juncti. Idem dies datus est partibus pred. tunc ibidem, &c.

Ad quam quidem proxim. Cur. tent. infra honor. pred. die, &c. tunc prox. sequen. ven. tam dictus querens quam dicti. defend. per Attorn. suos pred. & pred. Ball. retornavit pannellum cum nomin. Jur. de quibus duodecim viz. A. B. &c. (naming

namque the xii) exact. ven. & Jurat. fuer. & dixerunt super sacram. suum quod præd. C. D. possessionat. fuit de dict. pec. panni in narratione sua præd. superius specificat. Et quod eadem pec. panni per inventionem ven. ad manus dict. A. B. Et quod præd. querens eundem A. B. deliberare eidem querent. eandem pec. panni requisivit, & quod præd. Def. non deliberavit eandem dicto querent.

Et ulterius, iidem Jur. dixer. quod dictus Def. in manibus suis adhuc detinet eandem pec. panni; & si super totam materiam in forma præd. compert. eundem Def. esse culpabil. de præmissis in narratione præd. specificat. vel non Jur. præd. omnino ignorant. & pet. advisamen. Cur. oe præmissis, & si super totam materiam in forma præd. compert. videtur Cur. quod dictus defend. culpabilis est de præmissis in narratione præd. specificat. tunc dicti Jur. dicunt super sacram. suum quod præd. Def. de præmissis in narratione præd. specificat. est culpabilis, Et tunc iidem Jurat. assidunt dampna occasione premisorum ultra mis. & custag. per ipsum circa festam suam in hac parte expens. ad viginti solid. & pro misis & custag. illis ad xii d. Et si super totam materiam in forma præd. compert. videtur Cur. hic quod dictus Def. non est culpabilis de præmissis in narratione præd. specificat. tunc Jurat. præd. super sacram. suum dicunt quod dictus Def. non est culpabilis de præmissis in narratione præd. specificat. Et quia eadem Curia se advisare vult de & super premis. antequam judic. inde reddat, dies datus est partibus præd. hic usq; prox. Cur. tenend. infra Honor. præd. ad audiend. inde judic. suum, &c. Ad quam quidem Cur. tent. infra Honor. præd. die, &c. tunc prox. sequent. ven. tam dictus quer. quam præd. Def. per Attorn. suos præd. Et quia Cur. de reddend. judic. inde nondum advisatur, dies datus est partibus præd. quousq; proxim. Cur. de audiend. inde judicium suum, &c. Ad quam quidem Curiam tent. in Honor. præd. die, &c. tunc prox. sequent. ven. tam dictus quer. quam præd. Def. per Attorn. suos præd. super quo premis. visis & per Curiam hic plene intellecti. videtur Cur. hic quod idem Def. est culpabilis de præmissis in narratione præd. specificat. Ideo considerat est per eandem Curiam quod idem querens recuperet versus Def. præd. dictos xxi s. per Jurat. præd. in forma præd. assellat. ac etiam xxii s. pro misis & custagiis suis per Curiam hic ex assensu suo de incremento adjudicat. quæ quidem dampna sua in toto attingunt ad 43 s. Et idem A. B. in mis. &c.

Et unde idem C. D. pet. quod pefat. A. B. ostendat Cur. hic & assignet defect. ubi fals. judic. sibi fac. est in dicta loquela in eadem Curia si quid factum sit. Unde idem A. B. dic. quod idem Record. vitiolum est. & multum defectivum; & quod fals. judic. sibi fact. est in dicta loquela, in hoc quod in

Recordo

Recordo præd. nulla sit mentio cujus est Cur. Honor. de P. & in hoc, quod nulla mentio fiat quis est Dominus ejusdem Cur. neque qui sunt sectatores ejusdem: ac etiam in hoc, quod Jurator. non inveniunt quod præd. A. B. eadem pec. panni ad usum suum proprium convertit; & sic idem A. A. dic. quod multis modis in dicta Curia fals. judic. sibi fact. est in loquela prædicta.

Et pet. quod dict. judic. pro erroribus diversis & aliis in recordo existen. tanquam fals. & vitios. revocetur, & pro nihilo habeatur. Et quod ipse omnibus quæ occasione dicti falsi judicii amisit, restituatur: Et quod Justic. hic procedant ad examinand. præmis. Et quia Justic. hic, &c.

*Placita in Curia Com. Ebor. tent. apud Castrum
Eborum in Com. Ebor. undecimo die Januarii,
Anno Regni Domini nostri Willielmi tertii
Dei Gratia Angliæ, Scotiæ, Franciæ &
Hiberniæ Regis Fidei Defensoris, &c. decimo
coram A. B. C. D. E. F. & G. H. generosis
sectatoribus Curiae præd. tempore A. B. Ar.
Vicecomitis Com. præd.*

AD hanc Curiam venit I. H. in propria persona sua ac impetravit quandam loquelam versus E. M. de placito transgr. super Casum, & idem I. H. ad tunc & ibidem in eadem Curia invenit pleg. de prosequendo loquelam suam præd. scilicet Johannem Doe & Richardum Roe; & superinde idem I. H. petit ab eadem Curia process. sibi inde fieri versus præd. E. M. in & super loquelam suam præd. super quo præfatus A. B. Vic. Com. præd. ut prefertur tunc existens second. consuetudinem Curiae illius mandavit omnibus & singulis ballivis suis in & per totum Com. præd. conjunctim & divisim quod ponant seu unus eorum ponat per vados & salvos pleg. præd. E. M. ita quod sit ad prox. Curiam Com. Ebor. præd. tenend. apud Castrum Eborum in Com. præd. coram sectatoribus Cur. præd. octavo die Februarii tunc prox. sequend. ad respondend. eidem I. H. in placito prædicto, idem dies datus est per Curiam prædictam eidem I. H. in placito præd. ad quem diem scilicet ad dictam prox. Cur. Com. Ebor. præd. tent. apud Castrum Ebor. præd. coram præd. Sectatoribus Cur. præd. eodem octavo die Februarii Anno decimo suprad. to venit præd. I. H. in propria persona sua; & obtulit se versus eundem E. M. in placito prædicto, & ipse idem E. M. solempniter exat. non venit, Ac. R. I. unus Ballivorum ejusdem Vic. Com. præd. ac unus ministror. Cur. præd. venit & retornavit præceptum præd. in forma præd. direct. & ulterius testatur quod præd. E. M. nihil habet in Com. Ebor. præd. per quod attachiari potest super quo ad tunc

tunc & ibidem ad eandem Curiam Com. Ebor. præd. tent. apud Castrum Eborum præd. coram præfat. Sēſatoribus Cur. præd. eodem octavo die Februarii anno decimo ſupradicto ad petitionem præd. I. H. præfat. Vic. Com. præd. ſecundum conſuetudinem Cur. præd. mandavit omnibus & ſingulis ballivis ſuis in & per totum Com. pred. quod attachiant ſeu unus eorum attachiat pred. E. M. per bona & catalla ſi in Com. ſuo præd. invent. forent. Ita quod ſit ad prox. Cur. Com. Ebor. præd. tenend. apud Caſtr. Ebor. in Com. præd. coram Sēſatoribus Cur. præd. octavo die Martii, tunc prox. ſequend. ad reſpondend. præf. I. H. in placito præd. idem dies datus eſt eidem I. H. per Curiam præd. in placito pred. Et ſuperinde idem I. H. ponit loco ſuo I. C. Attorn. ſuum verſus præfat. E. M. in placito pred. Ad quem diem ſcilicet ad dict. prox. Cur. Com. Ebor. præd. tent. apud Caſtrum Eborum præd. in Com. præd. eodem octavo die M. anno regni dicti Domini noſtri Willielmi tertii nunc Regis Angliæ, &c. undecimo coram præfat. Sēſatoribus Cur. præd. ven. tam præd. I. H. per Attorn. ſuum præd. quam præd. E. M. in propria perſona ſua. Et præfat. R. I. unus balliv. præfat. Vic. Com. præd. venit & retornavit præceptum præd. ult. mentionat. ei in forma prædict. direct. in omnibus ſervit. & execut. & ulterius teſtat. eſt quod præd. E. M. attach. eſt per unum diſcum plumbi tinerii, anglice a *Pewſer-Doubler*, ad valentiam duorum ſolidorum & ſex denariorum de bonis & catallis ſuis quod ſit ad eandem prox. Cur. ad reſpondend. præfato I. H. in placito præd. Et ad tunc & ibidem præd. E. M. ponit loco ſuo Leonardum Bryar Attorn. ſuum in placito præd. Et ad tunc per eundem Attorn. ſuum petit ab eadem Curia quod pred. I. H. narret verſus ipſum E. ſuper loquelam ſuam præd. & ſuperinde præfat. I. H. ad tunc & ibidem in eadem Curia per Attorn. ſuum præd. narrando verſus ipſum E. M. ſuper loquelam ſuam præd. queritur quod cum præd. E. primo die Maii, Anno, &c. (ut in nar. uſque) & inde producit ſēſtam, &c. ſuper quo præd. E. M. per Attorn. ſuum præd. ad tunc & ibidem in eadem Curia petit licentiam inde interloquendi hic uſque prox. Curiam Com. præd. tenend. apud Caſtrum Ebor. præd. coram Sēſatoribus ejuſdem Cur. die Mercurii, videlicet, quinto die Aprilis tunc prox. ſequen. Et habet, &c. idem dies datus eſt per Curiam præd. præfato I. H. hic, &c. Ad quem diem ſcilicet ad dict. prox. Curiam Com. præd. tent. apud Caſtrum Eborum præd. in Com. præd. eodem quinto die Aprilis, anno undecimo ſupradicto coram præd. Sēſatoribus ejuſdem Cur. ven. tam præd. I. H. per Attorn. ſuum præd. quam præd. E. M. per Attorn. ſuum præd. Et præd. E. M. per Attorn. ſuum præd. ad tunc & ibidem ulterius petit licentiam interloquendi hic uſque prox. Cur. Com. præd. tenend. apud Caſtrum Eborum præd. in Com. præd. die Mercurii, videlicet tertio die Maii tunc prox. ſequend. & habet, &c. idem dies datus eſt per Curiam

Curiam pred. prefato I. H. hic, &c. Ad quem diem scil. ad dist. prox. Cur. Com. pred. tent. apud Castrum Eborum predict. in Com. pred. eodem tertio die Maii, anno undecimo supradicto coram prefat. Sessoribus ejusdem Cur. ven. tam pred. I. H. per Attorn. suum pred. quam pred. E. M. per Attorn. suum pred. Et pred. E. per Attorn. suum pred. defendit injuriam quando, &c. Et dicit quod ipse non assumpsit super se modo & forma prout pred. I. H. superius versus eum narravit, & de hoc ponit se super patriam, & pred. I. H. similiter. Ideo ad eandem Curiam Com. Ebor. pred. ad tunc & ibidem tent. ad petitionem ipsius I. H. preceptum est per prefatum Vic. Com. Ebor. pred. omnibus & singulis ballivis suis in & per totum Com. pred. conjunctim & divisim quod ven. facerent, seu unus eorum fac. ad prox. Curiam Com. pred. hic scilicet apud Castrum Ebor. pred. in Com. pred. coram Sessoribus Cur. pred. tricesimo primo die Maii tunc instantis duodecim probos & legales homines de vicinetu de Castro Ebor. in Com. pred. per quos rei veritas super exitum pred. inter partes pred. superius junct. melius sciri poterit, & qui nec pred. I. H. nec pred. E. M. aliqua affinitate attingunt ad faciend. quandam juratam patrie inter partes pred. in placito pred. quia tam idem E. M. quam pred. I. H. inter quos contentio est posuerunt se inde in Jurat. ill. Et quod habeant seu unus eor. habeat tunc nomina Jurator. pred. & precept. pred. idem dies datus est per eandem Curiam partibus pred. in placito pred. Ad quem diem scilicet ad pred. prox. Cur. Com. pred. tent. apud Castrum Eborum pred. in Com. pred. coram pred. Sessoribus ejusdem Cur. eodem tricesimo primo die Maii, anno undecimo supradicto ven. tam pred. I. H. per Attorn. suum pred. quam pred. E. M. per Attorn. suum pred. Et W. P. unus ballivorum prefati Vic. & unus Ministrorum Cur. pred. similiter venit & retornavit preceptum. pred. ei in forma pred. direct. in omnibus servit. & execut. una cum pannello de nom. Jurator. pred. inferius nominat. inter partes pred. in placito pred. impanellat. & eidem precepto annex. videlicet A. B. C. D. &c. Et ulterius testat. est quod quilibet Jurator. pred. separatim per se summon. est per Johannem Gell & Richardum Fell, legales Summonitores, & Jurat. illa inter partes pred. ponitur in respectu hic usque ad prox. Curiam Com. Ebor. pred. apud Castrum Eborum pred. coram Sessoribus Curie pred. tenend. vicefimo octavo die Junii tunc prox. sequen. pro defectu Jur. quia nulli vener. licet solemniter exact. fuerunt, &c. super quo ad petitionem pred. I. H. precept. est per pred. Vic. Com. E. pred. omnibus & singulis ballivis suis in & per totum Com. pred. conjunctim & divisim quod venire fac. ad pred. prox. Cur. Com. pred. tenend. apud Castrum E. pred. in Com. pred. eodem vicefimo octavo die Junii, anno undecimo supradicto coram Sessoribus Cur.

Cur. pred. Juratores pred inter partes pred. in placito pred. Ad quem diem scilicet ad dictam prox. Cur. Com. Ebor. pred. tenend. apud Castrum Eborum pred. in Com. pred. coram pred. Sectatoribus Cur. pred. eodem vicesimo octavo die Junii anno undecimo supradicto ven. tam pred. I. H. per Attorn. suum pred. quam pred. E. M. per Attorn. suum pred. ac Jurator. pred. modo in eadem Curia Com. pred. adtunc apud Castrum E. pred. in Com. pred. coram Sectatoribus Cur. pred. tent. solempniter exact. duodecim eorum videlicet A. B. C. D. &c. similiter venerunt qui ad veritatem de premisis super exitum pred. inter partes pred. ut prefertur junct. elect. triat. & jurat. existen. super sacramentum suum pred. dicunt quod pred. E. M. assumpsit super se modo & forma prout ipse idem I. H. superius versus eum queritur & assidunt dampnum ipsius I. H. occasione non performance promission. & assumption. pred. eidem I. H. per prefat. E. M. apud Castrum Ebor. pred. fact. ultra misas & custagia sua circa sectam suam in hac parte apposit. ad quatuor solidos & novem denarios, & pro misis & custagiis illis ad duos denarios; Ideo consideratum est per Curiam pred. quod. pred. I. H. recuperet versus prefat. E. M. dampna sua pred. per Juratores pred. in forma pred. assess. necnon octoginta solid. & sex denar. eidem I. H. ad requisitionem suam pro misis & custagiis suis per Curiam pred. de incremento adjudicat. Quae quidem dampna mis. & custag. in toto se attingunt ad octoginta & novem solid. & octo denar. Et pred. E. M. in misericordia, &c.

COURT.

DEBET.

SOME

SOME SELECT
PRECEDENTS
 OF
DECLARATIONS
 AND
PLEADINGS
 Incident and belonging to this
COURT.

DEBT.

Narr. Executor. versus Exec. super Billam.

Ebor. II.

E. F. Executor. testamenti & ult. voluntatis I. F. defuncti. virtute brevis de Justices Vic. Com. pred. direct. per I. S. Attorn. suum, queritur versus M. W. executor. ult. voluntatis & testamenti R. W. nuper de T. in Com. Ebor. *Husbandman* defuncti. at. dist. R. W. de T. in Com. Ebor. *Husbandman*, de placito quod reddat ei 7 l. &c. quas ei injuste detinet, &c. pro eo quod cum pred. R. W. in vita sua, videlicet xx die, &c. anno, &c. apud Castrum Eborum in Com. Ebor. & infra jurisdictionem hujus Curie per billam suam obligatoriam sigillo suo

suo signat. & hic in Curia prolata gerent. dat. die & anno predicto, cognovisset se debere prefat. I. R. in vita sua integr. & iustam summam 7 l. &c. solvend. eidem I. F. hered. execut. administr. vel assignat. suis, in vel super tertium diem Maii prox. sequent. dat. ejusdem bille; & pro solutione earundem idem prefat. R. W. tunc & ibidem per billam pred. obligasset se, Executores Administr. & Assign. suos, pred. tamen R. W. in vita sua, licet sepius requisit. pred. 7 l. eidem I. F. in vita sua seu pred. M. W. post mortem ipsius I. R. non solvit, &c. sed pred. R. W. in vita sua easdemolvere eidem I. F. in vita sua contradixit; & pred. M. W. post mortem pred. R. W. easdem prefat. E. F. post mortem dicti I. F. solvend. recusavit, & ad hoc faciend. adhuc contradicit & easdem injuste detinet; ratione cujus pred. E. F. dic. quod damn. habet ad valenc. x l. & inde produc. festam, &c. Et profert hic in Curia literas testamentar. pred. per quas satis liquet Cur. hic pred. E. F. fore execut. ult. volunt. & testamenti pred. I. F. defuncti. Et inde habere administrationem, &c.

Upon a Bill to be paid at the Day of Marriage and Issue upon it.

T N. & E. uxor ejus administrat. bonorum & catallorum *Ebor. ff.* quæ fuer. T. B. defuncti. queruntur per S. D. Attorn. suum versus I. H. alias dicti I. H. de C. In dicto Com. Gen. de placito quod reddat eis s. l. quas eis injuste detinet, &c. quod cum pred. I. H. (tali die & anno & loco) per quandam billam suam obligator. sigillo suo signat. & hic in Curia prolata. cujus dat. est eidem die & anno pro & in consideratione unius annuli aurei, cum quodam lapide vocato a *Diamond* in eodem annulo impresso quem de pred. T. B. in vita sua recepit die confectionis ejusdem billæ, cognovisset & concessisset ad & cum pred. T. B. in vita sua, quod ipse idem I. H. exec. vel assign. sui solverent vel solvi causarent prefat. T. B. exec. vel assign. suis pro eodem annulo, tali die & tempore qual. ipse idem I. H. uxorem duceret, vel nuptus foret, vel ad aliquod aliud temp. post desponsalia sua quancumque requisit. fuisset per pred. T. B. exec. vel assign. suos, sive per ipsum qui billam pred. afferret dictam sum. s. l. ad ejus vel eorum usus pred. tempore solvend. Et pred. T. N. & E. in facto dic. quod pred. I. H. post confectionem billæ illius, scilicet, (tali die, anno & loco) infra Eccles. Parochial. de H. in Com. pred. & Jur. pred. uxorem duxit quandam I. D. per quod actio accrevit eidem T. B. in vita sua, ac eidem E. post mortem ipsius T. B. dum sola fuit, & pred. T. N. & E. post desponsalia inter eos celebrat. ad exigend. & habend. de pred. I. H. easdem s. l. pred. tamen I. H. licet sepius requisit. pred. s. l. eidem

T. Brin vita sua, vel prefat. E. dum sola fuit cui administrat, omnium bonorum & catallorum quæ fuer. pred. T. B. tempore mortis suæ (talidie, anno & loco) per talem Episc. commiss. fuit; nec pred. T. N. & E. post desponsal. inter eos celebrat. non reddidit, sed illas eidem reddere contradixit; & illas prefat. T. N. & E. reddere adhuc contradicit & injuste detinet: unde dic. quod deteriorat. sunt & damn. habent ad valent. &c. Et inde producant. sciam, &c. Et proferunt hic in Cur. literas administratores: &c.

Bar infra ætatem.

ET pred. I. E. in propria persona sua ven. & defend. vim & injur. quando, &c. Et dicit quod pred. T. N. & E. actionem suam pred. versus eum habere non debent, quia dic. quod ipse tempore confessionis billæ pred. fuit infra ætatem vigint. & unius annorum, & hoc parat. est verificare: unde per. judic. si prefat. T. N. & E. actionem suam pred. versus eum habere debent, &c.

Replicat.

ET pred. T. M. & E. dicunt quod ipsi per aliqua preallegat. ab actione sua pred. habend. præcludi non debent; quia dicunt quod pred. I. H. tempore confessionis billæ pred. fuit plenæ ætatis viginti & unius annorum, ac non infra ætatem, prout pred. I. H. superius allegavit: & hoc per. quod inquiratur per patriam, & pred. I. H. similiter; Ideo præcept. est, &c.

Debt sur Retainer.

Ebor. II.

AB. per S. D. Attorn. suum queritur versus C. D. de placito, &c. pro eo quod cum pred. C. D. (tali die & anno) apud S. &c. retinisset eundem A. B. ad imponend. super pedes equorum pred. C. D. quadragint. novas soleas ferreas, Anglice *Horse-shoes*, & ad removend. quadragint. soleas ferreas, & ad emendand. un. par. instrumentorum ferreorum ad aratrum pertin. & ad faciend. un. focariam, anglice *a Fire-shovel*, ac ad recipiend. de pred. C. D. pro impositione quadragint. novar. solear. ferrear. pred. & quadragint. remotionibus xxi s. Et sic pro alter. parcell. solvend. eidem A. B. cum inde requisit. fuisset; virtute ejus retentionis prefat. A. B. pred. quadragint. novas soleas ferreas & quadragint. remotiones super pedes equorum ipsius C. D. imposuit, &c. per quod actio accrevit, &c. *Hill. 37. Eliz. Rot. 317.*

Debt

Debt for Money borrowed.

F B. per, &c. queritur versus T. A. de placito quod reddat ei xii l. quas ei debet, & injuste detinet, &c. pro eo videlicet quod cum 3 die Maii, anno regni Dom. Regis nunc Caroli secundi, &c. xiv apud, &c. prefat. F. B. & dictus T. A. infimul computassent de & pro diversis denar. summis tunc & ante tempus illud debitis & insolut. per eundem T. A. eidem F. B. & super eundem computat. idem T. A. ad tunc & ibidem cognovit se in arrearag. esse & indebitat. eidem F. B. sum. xii l. solvend. prefat. F. B. cum idem T. A. inde requisitus fuisset pred. tamen, &c.

Money lent by Joint-partners for a certain Time, and to be paid to the Survivor.

R K. &c. queritur versus W. A. de placito quod reddat Ebor. ff. ei xx s. quos ei debet & injuste detinet, &c. pro eo videlicet quod cum ult. die Februarii anno Regni Domini Regis nunc Angliæ xiv apud castrum, &c. prefat. R. K. & quidam R. W. nunc defunct. consortes de denar. & aliis commoditatibus existent. mutuo dederunt eidem W. A. 3 l. legalis, &c. solvend. eis vel superstit. eorum die Lunæ Paschal. tunc proxim. sequent. de quibus 3 l. prefat. W. A. prefat. R. K. & R. W. in vita sua solvit summam 40 s. & tunc ibi reman. insolut. summa viginti solidorum 3 & postea & circa Nativitat. Christi, anno dicti Domini Regis nunc xiv apud, &c. dictus R. W. obiit, & pred. R. K. cum supervixit, per quod actio accrevit eidem R. K. ad habend. & exigend. de pred. W. A. pred. xx s. pred. tamen W. A. licet sæpius ad hoc requisitus. pred. xx s. prefat. R. K. nondum reddidit, sed ill. ei hucusque reddere recusavit, & adhuc recusat: unde idem R. K. dic. quod deteriorat. est & dampnum habet ad valenc. xxxix s. xi d. & inde produc. sextam, &c.

For Rent in Arrear.

R M. per, &c. queritur versus H. D. de placito quod reddat Ebor. ff. ei xxx s. quos ei debet & injuste detinet, &c. pro eo quod idem R. M. x die Aprilis, &c. apud Castrum, &c. demisit, concessit, & ad firmam tradidit eidem H. D. un. cottag. un. hort. & quatuor acr. terr. arabil. cum pertin. jacent. & existent. apud W. in Com. pred. ac infra juri. pred. habend. & tenend. dicta cottag. hort. & terr. arabil. cum pertin. eidem H. D. & assign. suis, ab Annunciat. beatæ Mariæ Virginis vul-

gariter vocata *Lady-Day*, tunc ult. preterit. pro & durant. termino trium annorum extunc proxim. sequent. plenar. complend. finiend. & terminand. reddend. inde annual. redd. pro pred. premis. eidem R. M. pro anno primo trium annorum predistorum redd. trium librarum in denar. numerat. in manibus solvend. eidem R. M. & 3 l. 10 s. &c. annuatim solvend. eidem R. M. pro aliis duobus annis resid. dicti termini ad festa Sancti Michaelis Archang. & Annuntiat. beatæ Mariæ virginis per equales portiones: Virtute cujus dimissionis idem H. D. in dicta cottag. & cætera præmissa intravit. & fuit. & adhuc existit inde possessionat. Et quia 35 s. pro dimid. ann. fuit. ad festum Sancti Michaelis Archang. anno. &c. sunt in arrerag. & insol. præfat. R. M. ideo actio accrevit eidem R. M. ad exigend. & habend. de pred. H. D. dictos 35 s. pred. tamen H. D. licet sæpius requisit. pred. 35 s. eidem R. M. hucusque reddere & solvere contradixit. & adhuc reddere & solvere contradicit. ad dampnum ipsius R. M. 39 s. & inde produc. sextam. &c.

For Servants Wages.

A W. per &c. queritur versus I. S. de placito quod reddat ei 24 s. &c. quos ei debet & injuste detinet. pro eo quod cum pred. I. S. die. anno. &c. apud Castrum. &c. tenuisset eundem A. W. ad deservend. dict. I. S. in loco servientis abinde usq; ad festum sancti Martini Epi. in hyeme tunc prox. sequent. ad agend. & exequend. legales occasiones. & mandata præfat. I. S. per tempus. pred. solvend. inde eidem A. W. 12 s. &c. quod pred. I. S. ad tunc & ibidem solvit præfat. A. W. ac etiam 24 s. ultra. &c. pro Salar. suo durant. termino pred. ad dictum Festum Sancti Martini anno. &c. pred. Et pred. A. W. in facto die. quod ipse juxta retentionem pred. deserviebat dicto I. S. in loco servientis. & fecit. & pergit legalia mandata. & occasiones præfat. I. S. per tempus pred. apud. &c. Et quod 24 s. pro salar. suo pro servic. suo per tempus pred. debet. ad Festum Sancti Martini Epi. in hyeme anno. &c. superius mentionat. adhuc est in arrerag. & insol. per pred. I. S. eidem A. W. per quod actio accrevit eidem A. W. ad habend. & exigend. de præfat. I. S. dict. 24 s. pred. tamen I. S. licet sæpius requisit. &c.

For not setting forth of Tithes.

Ebor. ff.

R H. firmar. omnium & singularum decimar. feni crescend. infra Paroch. de P. in Com. Eborum. virtute brevis de Justicies Vic. Com. pred. direct. per R. N. Ateorn. suum queritur versus T. W. de placito quod reddat ei 6 l. &c. quas ei debet

debet & injuste detinet, pro eo quod cum prefat. T. W. die, anno, &c. possessor fuit & occupator de quatuor acris prati in Paroch. predicta; & sic inde possessionat. existent. Idem T. W. adtunc & ibidem herbam crescent. in & super pred. quatuor acras prati defalcavit, & duo plaustra onerat. ibidem, attingent. ad valorem x l. adtunc & ibidem cepit & asportavit, ante aliquam extraposition. & separation. decimarum pred. five decimæ partis ejusdem a novem inde partibus, vel composition. pro pred. decimis five decima parte inde, per quod pred. T. W. fecit contra formam Statuti anno 5 Ed. 6. in simil. casu edit. & provis. Unde actio accrevit eidem R. H. ad habend. & exigen. de prefat. T. W. eisdem 6 l. videlicet, pro triplici valore ejusdem feni sic asportat. pred. tamen T. W. licet sæpius requisit. &c.

Upon an Award.

R. K. virtute, &c. per E. B. Attorn. suum queritur versus H. S. de placito quod reddat ei x l. quas ei debet & injuste detinet, &c. pro eo quod cum 25 die A. anno, &c. apud Castrum, &c. conclus. fuit & agreear. inter prefat. H. S. ex una parte, & pred. R. K. ex altera parte, quod ipsi & eorum interq; requiescent & astarent Ordin. arbitrium & judicium I. D. & M. L. de omnibus & singulis sect. perturbat. litib. debet. transgression. &c. quibuscunq; quæ ante inter eos fuer. in aliquo genere negotiat. a principio mundi ad diem dat. dicti scripti, existent. dicto 25 die A. vel aliter una altera pars eodem arbitrio non acquies. alteri parti forisfaceret summ. x l. &c. Et pro confirmatione ejusdem eorum uterq; man. & sigilla eorum imposuer. die & anno superscript. apud Castrum pred. &c. prout per idem script. (ad ostendend. huic Curie parat.) liquet. Et cum postea, scilicet die, anno, &c. apud Castrum, &c. pred. I. D. & M. L. super se assumpser. onus præmissorum per ordinem eorum script. gerent. dat. eisdem die & anno ult. superius mentionat. & hic in Cur. ostensum arbitraverunt ordinaverunt & adjudicaver. quod prefat. R. K. tunc deliberaret eidem H. S. un. parcell. turbasis, anglice *Starch* in man. dicti R. K. & bagum qua turbasis posit. est, affirmat. esse bonorum dict. H. S. super visum dict. ordinis. Et ulterius per ipsum ordinem ordinaver. & adjudicaver. quod pred. H. S. solvat vel solvi faciet eidem R. K. super visum hujus ordinis summ. &c. Et quod omnia illa secte debet. transgr. five lites quæcunque a principio mundi usque ad pred. 25 diem, &c. delissent & terminentur aut aliter pars eadem ordine non acquiescent. forisfacer. &c. sicut in dicto ordine exprimitur sum. x l. prout per dictum arbitrium sigillat. dictis die & anno, &c. per dictos arbitratores, & hic in Curia ad ostendend. parat. satis liquet. Et idem R. K. in facto dic. quod licet ist. peregit omnia in

Per quodam script. factum.

dicto arbitrio ex parte ejus peragend. pred. tamen H. S. non performavit aliquid in dicto arbitrio ex parte sua performand. Et idem quer. in facto dicit quod dictus H. S. non solvit prefat. R. K. super visum ordinis existent. die & anno, &c. apud Castrum, &c. summam de 50 s. &c. per quod actio accrevit eidem R. K. ad exigend. & habend de pred. H. S. dict. x l. pred. tamen H. S. licet sapius ad hoc requisit. pred. x l. eidem R. K. nondum solvit, sed easdem solvere, &c.

Pro Feodis Attorn.

Ebor. ff.

R. A. Gen. &c. per T. S. Attorn. suum queritur de W. P. de placito quod reddat ei 37 s. 2 d. quos ei debet & injuste detinet, pro eo quod cum pred. W. P. die anno, &c. apud Castrum Eborum, &c. retinisset eundem R. A. essend. Attorn. ipsius W. P. in Curia Com. T. S. Vic. & tent. apud Castrum Ebor. in Com. Ebor. coram sectator. ejusdem Curie ad prosequend. tanquam Attorn. ipsius W. P. pro eodem W. P. in quadam actione in nomine ipsius W. P. versus quandam C. C. de placito debet. a dictis die & anno, &c. tandem ambabus partibus placeret, capiend. inde pro feod. & labore suo in ea parte sustent. qualibet Cur. qua idem R. A. attornatus prefat. W. P. in secta illa sic existit, ii s. legalis, &c. Ac ultra feod. & rationabil. misas & expens. per eundem R. A. in & circa prosecutionem actionis pred. solv. & deponend. virtute cujus retentionis, idem R. A. Attorn. ipsius W. P. pred. fuit pro octo curiis tunc prox. sequent. & quod deposuisset Clerico & al. Ministr. ejusdem Curie in & circa prosecutionem ejusdem secte xx s. ii d. &c. qui quidem xx s. ii d. una cum xvi s. pro feod. suis pro pred. octo Curis in toto attingunt ad 37 s. 2 d. &c. ratione cujus actio accrevit eidem R. A. ad exigend. & habend. de prefat. W. P. pred. 37 s. 2 d. pred. tamen W. P. licet sapius requisit. pred. &c. eidem R. A. non reddidit, sed ill. ei hucusq; reddere omnino recusavit, & adhuc recusat, ad grave damn. ipsius R. A. unde dic. quod deteriorat. est & damn. habet ad valenc. 35 s. Et inde produc. sectam, &c.

Upon a Lease for Tithes.

Ebor. ff.

W. T. per B. Attorn. suum queritur de R. R. de placito quod reddat ei xx s. &c. quos ei debet & injuste detinet pro eo quod cum pred. W. T. ii die Novembris, anno, &c. apud, &c. tunc firmar. Rectorie de S. existent. pro uno anno integro tunc proxim. sequent. dimisisset eidem R. R. omnes decimas granorum existent. de & super sex acras & tres rudas terr. arabilis parcell. terr. de P. in W. pred. ac parcell. de sive Rectoriz, pro viginti solid. &c. solvend. eidem W. T. modo

modo & forma sequent. viz. 12 s. super festum Sancti Marci Evangelistæ tunc prox. sequent. & alt. oñ. solid. super festum Sancti Martini Epi. in Hyeme tunc proxim. sequent. pred tamen R. R. licet sæpius ad hoc faciend. requisit. pred 20 s. eidem W. T. nondum reddidit, sed ill. ei reddere contradixit, & adhuc contradic. Unde idem W. T. dic. quod deteriorat. est & damn. habet ad valent. 30 s. Et inde producit sectam, &c.

Upon a Bond for a surviving Obligee.

I P. virtute brevis de Justic. &c. queritur versus M. M. de S. Teoman, al. dict. M. M. de S. Teoman, de placito quod reddat ei 40 l. &c. quas ei debet & injuste detinet, &c. pro eo quod cum dictus M. M. 2 die Maii, anno, &c. apud, &c. per quoddam scriptum suum obligator. sigillo suo signat. & hic in Cur. prolatum, cujus dat. est die & anno supradictis, concessisset se debere & firmit. obligari prefat. I. P. & E. G. nuper de Civitate Ebor. defunct. in sum. 40 l. solvend. eidem I. P. & E. G. vel eorum alteri cum inde requisit. fuisset: qui quidem E. G. postea, & ante impetrationem hujus querelæ apud, &c. obiit, & pred. I. P. ipsum supervixit, per quod actio accrevit eidem I. P. ad habend. & exigend. de pred. M. M. pred. 40 l. pred. tamen M. M. licet sæpius requisit. pred. 40 l. eidem E. G. non reddidit, sed ill. ei reddere, &c.

Upon the same.

I H. virtute, &c. queritur versus W. H. de L. al. dict. &c. de placito quod reddat ei 20 l. quas ei debet & injuste detinet, &c. pro eo quod cum pred. W. H. (tali die & anno) apud, &c. per scriptum suum obligatorium cognovisset se teneri eidem I. H. & cuidam M. H. nunc defunct. quem dictus I. H. supervixit, in pred. 20 l. solvend. prefat. I. H. & M. H. vel eorum alteri cum inde requisit. fuisset; pred. tamen W. H. licet sæpius requisit. pred. 20 l. eidem I. H. & M. H. vel eorum alteri in vita dicti M. H. aut prefat. I. H. post mortem dicti M. H. qui, &c. non reddidit, sed ill. ei reddere contradixit, & ill. prefat. I. H. adhuc reddere contradic. Unde dic. quod deterior. est & damn. habet ad valent. 20 l. Et inde producit sectam, &c. Et profert hic in Cur. scriptum pred. quod debitum pred. in forma predicta cessatur, cujus dat. est die & anno supradictis,

*Upon a Bond for an Executor against Sisters as Cohæirs
one of them being married.*

T P. Executor. testamenti. W. P. virtute brevis, &c. queritur de R. M. nuper de L. mil. & A. uxore ejus, & L. B. nuper de L. Spinster, filiz & cohæredis C. B. nuper dicti. C. B. &c. de placito quod reddant ei 80 l. quas ei injuste detinent, &c. pro eo quod cum præd. C. B. pater dictarum A. & L. cujus cohæredes ipsæ sunt in vita sua, x die Junii, anno, &c. apud, &c. per scriptum suum obligator. cognovisset se teneri præfat. W. P. in vita sua in 80 l. solvend. eidem W. P. cum inde requisit. fuisset. Et ad eandem solutionem bene & fidel. faciend. præd. C. B. obligasset se & hæredes suos per idem scriptum. præd. tamen C. B. in vita sua & præd. A. & L. filias & cohæredes præfat. C. B. post mortem ipsius C. B. dum sole fuer. &c. præd. R. & A. & L. post desponsat. inter eosdem R. & A. celebrat. licet sæpius requisit. præd. 80 l. eidem W. P. in vita sua, vel præfat. T. P. post mortem ipsius W. P. non reddiderunt, sed ill. eis reddere contradixerunt & præd. R. & A. & L. ill. eidem T. P. adhuc reddere contradicunt & injuste detinent; unde dic. quod deteriorat. est & damn. habet ad valenc. in l. &c. inde prode. Redam, &c. Et præfert, &c. tam scriptum præd. &c. quam literas testamentarias, &c.

Upon a Bond against an Administrator for an Administrator during the Minority of the Executor of an Executor.

Ebor. fl.

W T. uxor ejus Administrator. bonor. & catall. quæ fuerunt in B. A. nuper de H. Executor. testamenti E. A. de T. virtute brevis, &c. queritur versus M. C. &c. Administrator. bonor. & catallorum quæ fuer. R. C. qui obit. intestat. &c. nuper dicti. R. C. de T. in Com. Eborum Gen. de placito quod reddat eis 40 l. quas eis injuste detinet, &c. pro eo quod cum præd. R. C. in vita sua quarto die Januarii, anno, &c. apud, &c. per quoddam scriptum suum obligatorium concessisset se teneri præd. E. A. de T. in vita sua in præd. 40 l. solvend. eidem E. A. cum inde requisit. fuisset; præd. tamen R. C. in vita sua, & præd. M. C. post mortem ipsius R. C. cui administratio omnium bonorum & catallorum quæ fuerunt dicti R. C. tempore mortis suæ, tali die, &c. apud Castrum Eborum præd. post mortem dicti. R. C. commissa fuit, licet sæpius requisit. præd. 40 l. præfat. E. A. de T. in vita sua, aut præd. E. A. de H. in vita sua post mortem dicti. E. A. de T. vel dicti. E. post mortem dicti. E. A. de H. dum sola fuit cui administratio omnium bonorum

porum & catallorum quæ fuerunt pred. E. A. de H. tempore mortis suæ durant. minori ætate dicti E. A. Jun. Execut. testamenti dicti E. A. de H. qui quidem E. A. adhuc est infra ætatem, scilicet, quatuordecim annorum, & non ultra, per A. provident. divina tunc Ebor. Archiep. x die Maii, anno, &c. apud Castrum Eborum, &c. post mortem dicti E. A. de H. commissæ fuit, vel pred. W. T. & E. post desponsal. inter eos celebrat. non reddider. sed ill. eis reddere contradixit. Et predicta M. C. ill. prefat. W. T. & E. adhuc reddere contradic. & iniuste detinet; Unde dic. quod deteriorat. sunt & damnabunt ad valenc. xxx l. Et inde produc. sextam, &c.

Et proferunt hic in Curia tam scriptum pred. quod debet. pred. in forma pred. testatur, cujus dat. pred. xiv die Januarii, &c. pred. quam literas testamentar. dicti E. A. de T. per quas satis liquet Cur. hic dicti E. A. de H. Executor, fore testamenti prefat. E. A. de T. & inde habuisse Administrat. &c. Ac etiam literas testamentar. dicti E. A. de H. per quas satis liquet Cur. hic prefat. E. A. Jun. exec. fore testamenti ejusdem E. A. de H. Ac etiam literas administrat. &c. quæ commissio administrat. pred. pred. E. in forma pred. testatur, &c.

For not delivering of a Pawn upon Tender of the Money borrowed.

AS. virtute brevis, &c. querit. vers. E. P. de placito quare Ebor. II.
pred. A. primo die Maii, &c. apud, &c. mutuo accepit de pred. E. P. xii l. &c. & adtunc & ibidem pignora vit, & in nomine pignoris dedit & deliberavit prefat. E. P. diversa bona & catalla pred. A. S. ad valenc. 172 l. legalis, &c. pro securitate solutionis eidem E. P. pred. xii l. una cum interesse pro deferend. & dando diem solutionis dictar. 12 l. juxta rat. 6 l. per cent. quousq; pred. A. S. pred. xii l. pred. E. P. resolveret. Et prefat. E. P. adtunc & ibidem, videlicet, primo die Maii, anno, &c. pred. apud, &c. in consideration. præmissor. super se assumpsit, & eidem A. S. adtunc & ibidem fidelit. promisit quod ipse prefat. E. P. bona & catalla pred. sibi per prefat. A. S. antequam pignorat. & deliberat. eidem E. P. super solutionem pred. 12 l. una cum interesse pro pred. 12 l. juxta rat. pred. sibi faciend. bene & fideliter redeliberaret: Ac licet pred. A. S. postea, scilicet, 16 die S. anno, &c. & sæpius postea apud, &c. pred. 12 l. una cum interesse pro eisdem 12 l. juxta rat. 6 l. per cent. per totum tempus pred. E. P. plenar. ad solvend. & satisfaciend. obtulit, pred. tamen E. P. promissionem & assumptionem suas pred. minime curans, sed machinans & fraudulent. intendens eundem A. S. in hac parte callide & subdole decipere & defraudare pred. 12 l. una cum scœnore
pro

pro eisdem 12 l. juxta rat. pred. de prefat. A. S. recipere, & bona & catalla pred. eidem A. S. deliberare omnino recusat, ad grave damn. ipsius A. S. &c.

Against a Carrier for Loss of Goods delivered to him.

Ebor. II.

G. B. Ar. virtute, &c. queritur de P. M. de placito trans. gr. super casum, pro eo quod cum prefat. P. M. (tali die & anno) & diu antea, & semper postea hucusq; fuit, & adhuc existit communis Gestator anglice *a common Carrier*, a Civitate Eborum in Com. ejusdem Civitatis ad Villam de S. in dicto Com. & a pred. Villa de S. ad eandem Civitatem Eborum. Et idem P. M. eodem die & anno, & diu antea, & continue postea hucusq; usitat. & assuet. fuit per se & servientes suos super equos ipsius P. M. bona & catalla pro rationabili & legali stipend. & salar. aliquibus personis in ea parte inde solvend. carriare ultro citroq; inter pred. Villam de S. & Civitat. Ebor. juxta usual. agreement. & solution. in ea parte faciend. & habend. Cumq; etiam secundum leges & consuetudinem hujus regni Angliæ, omnes Gestatores qui bona & catalla de aliquibus personis recipiunt sic gestand. pro rationabil. & legal. stipend. sive salar. inde dand. & solvend. obligat. sunt ad conservand. & gestand. eadem bona & catalla consimilium personarum sic recept. sine eorum spoliatione, detentione, vel perditione; ita quod pro vel per defect. consimilis commun. Gestatoris nullum damn. ullo modo contingerit talibus personis per gestationem inde cumq; pred. P. M. pred. (tali die & anno) apud S. pred. in Com. pred. ac infra Jur. pred. super se suscepisset carriare un. Riscum, anglice *a Trunk*, firmat. serat. cum diversis denariis. sum. de bonis & catallis pred. G. B. ad valenc. x l. in eodem Risco tunc existent. tute & sedulo a pred. Civit. Ebor. ad dictam Villam de S. & pro cert. & usual. stipend. salar. & rat. pro gestatione ejusdem Risci denar. bonorum & catallorum pred. per prefat. G. prefat. P. M. postea solvend. Et pred. P. M. postea, scilicet, (tali die & anno pred.) apud Civit. Ebor. pred. de ipso prefat. G. B. Risco pred. recepit, cum denar. bonis & catallis pred. in eodem Risco ut pred. est serat. in forma pred. gestand. pred. P. W. Risco pred. cum denar. bonis & catallis pred. de prefat. G. B. postea, scilicet, tali die & anno, tam negligenter & improvide conservabat & carriavit, quod diversa denar. sum. bona & catalla ipsius G. B. in eodem Risco ut pred. serat. scilicet, 5 l. in denar. numerat. un. par. &c. ad valenc. &c. per remissam custodiam ipsius P. M. ad tunc & ibidem amissa fuer. Et quod ipse prefat. G. B. eadem denar. bona & catalla ult. mentionat. a tempore illo usque diem, &c. scilicet, tali die & anno, non recepit nec habuit, licet pred. P. M. per eundem G. B. postea, scilicet,

scilicet, tali die & anno, sæpius requisit. fuisset denar. bona & catalla pred. eidem G. B. deliberare. Unde idem G. B. dic. quod dampnum habet, &c.

For Coals, promising to pay so much as they should reasonably be worth.

I I. &c. queritur de R. R. de placito transgr. super Casum, &c. pro quod eo cum dictus R. R. die, anno, &c. apud Castr. &c. in consideratione quod pred. I. I. ad requisition. dict. R. R. barganizasset & vendidisset eidem R. R. undecim carectatas carbonum, super se assumpsit, & prefat. I. I. adtunc & ibidem fidelit. promisit quod ipse idem R. R. tantas denariorum summas quantas predictæ undecim carectatæ carbonum rationab. valebant eidem I. I. cum inde requisit. fuisset bene & fideliter solvere & contentare vellet. Et prefat. I. I. in facto dic. quod predictæ undecim carectatæ carbonum rationabil. valebant trigint. & tres solidos, &c. pred. tamen R. R. promissionem & assumptionem suas predictas minime curans, sed subdole & callide intendens eundem I. I. in premiss. defraudare & decipere licet sæpius requisit. pred. trigint. & tres solidos eidem I. I. non solvit, sed ill. ei hucusq; solvere omnino recusavit, & adhuc recusat, contra promissionem & assumptionem suas predictas, ad grave dampnum ipsius I. I. Unde dic. quod deterior. est & damn. habet ad valenc. 39 s. & inde produc. sectam, &c.

For a Horse sold, and warranted to be sound.

W M. per R. B. Attorn. suum queritur de R. K. de placito transgr. super casum eo quod cum predictus W. M. die & anno, &c. apud Castrum Eborum, &c. Emisset de predicto R. K. unum atrum Spadonem, anglice *one black Gelding*, pro § l. legalis, &c. ipse idem R. K. adtunc & ibidem warrantizavit eundem Spadonem esse incolumem & sanum, ac nullo morbo vel infirmitate teneri; & predictus W. M. in facto dic. quod predictus Spado tunc adeo infectus fuit cum quodam morbo pestifero, vocato *the Glaunders*, & diversis aliis morbis & infirmitatibus, quodq; predictus Spado parvum valebat, ad dampnum ipsius W. M. 39 s. Et inde produc. sectam, &c.

Ebor. ff.

For a Horse lent, promising to deliver him.

I R. queritur de I. A. de placito transgr. super casum, &c. Ebor. ff. quare cum dictus I. A. die & anno, &c. apud Castrum, &c. In consideratione quod predictus I. R. adtunc & ibidem ad instantiam

stantiam & requisitionem ejusdem I. A. mutuo dedisset & deliberasset eidem I. A. unum badium Equulum, anglice *one bay Nag*, prec. 6 l. redeliberand. eidem I. R. cum inde postea requisit. fuisset p̄fat. I. A. super se assumpsit, & eidem I. R. ad tunc & ibidem fidelit. promisit quod ipse idem I. A. eundem Equulum eidem I. R. cum inde postea requisit. fuisset fidelit. redderet & deliberaret, ac etiam 12 d. pro quolibet die quo p̄fat. I. A. laboraret & equitaret eundem Equulum eidem I. R. cum inde postea requisit. fuisset bene & fideliter solvere & contentare vellet. Et p̄fat. I. R. in facto dic. quod idem I. A. per quadragint. dies eundem Equulum laboravit & equitavit, videlicet, apud, &c. predictus tamen I. A. promissionem & assumptionem suas predictas minime curans, sed callide & subdole intendens eundem I. R. in premissis decipere & defraudare, scilicet, die, anno, &c. pred. ac etiam diversis diebus & temporibus postea, & ante inceptionem hujus sectæ, apud Castrum, &c. ad deliberand. eundem Equulum eidem I. R. saepius requisit. fuit, sed predictum Equulum reddere sive deliberare omnino recusavit, & adhuc recusat, necnon 40 s. pro labore & mercede ejusdem Equuli pro 40 diebus predictis eidem I. R. non solvit, sed ill. ei solvere similiter recusavit, & adhuc recusat, ad grave dampnum ipsius I. R. &c.

For gisting of Beasts.

T B. queritur de I. S. Executor. testamenti I. D. de placita transg. super casum, quod cum die, anno, &c. apud Castrum, &c. in consideratione quod predictus T. B. ad special. instanc. & requisition. I. D. in vita sua depasceret duos boves ejusdem I. D. in terra dicti T. B. in A. in Com. predicto ac infra Jur. pred. a die, anno, &c. ad finem unius mensis prox. sequent. ipse idem I. D. in vita sua super se assumpsit, & eidem T. B. ad tunc & ibidem fideliter promisit quod ipse p̄fat. I. D. tantum quantum dicta depast. pro averiis predictis rationabiliter valeret eidem T. B. cum idem I. D. inde requisit. fuisset, bene & fideliter solvere & contentare vellet. Et p̄fat. T. B. in facto dic. quod ipse a predicto die, &c. ad finem unius mensis tunc prox. sequent. depavit dictos duos boves ipsius I. D. in terra ejusdem T. B. in A. pred. ac infra Jur. pred. Et quod eadem depast. rationabiliter valebat 12 s. &c. pred. tamen I. D. in vita sua, & pred. I. S. post mortem ipsius I. D. promission. & assumption. ejusdem I. D. minime curans, sed machinans & fraudulenter intendens eundem T. B. in hac parte callide & subdole decipere, & defraudare, predictos xii s. vel aliquem inde denar. eidem T. B. nondum solvit, nec pro eisdem aliquallit. contentavit, sed ill. solvere pred. I. D. in vita sua, sicut requisit. recusavit & p̄fat. I. S. post mortem ipsius I. D.

I. D. recusavit, & adhuc recusat: Unde idem T. B. dic. quod deteriorat: est & damn. habet ad valenc. 30 s. Et inde pro-
duc. festam, &c. Vide *Cowell's Interpr.*

For curing a Wound.

A S. queritur de W. H. &c. quod cum dictus W. H. die, *Ebr. ff.*
anno, &c. apud Castrum, &c. adtunc & ibidem gravit.
vulnerat. in Gutturo & in tergo suis cum confossione cultelli,
ipse idem W. H. in consideratione quod prefat. A S. ad specia-
lem instanc. & requisition. ipsius W. H. secundum optimas ar-
tem & peritiam suas Chirurgi operam daret vulnera pred. ejus-
dem W. H. sanare, ac studium & laborem inde impenderet,
super se assumpsit, & eidem A. S. adtunc & ibidem fideliter
promisit, quod ipse idem W. H. tantas denar. summas quantas
pred. A. pro opere & labore suis & pro medicamentis ad sa-
nand. vulnera predicta ejusdem W. H. impensi rationabilit.
habere meretur, eidem A. S. cum inde requisit. fuisset, bene
& fideliter solvere & contentare vellet. Et predictus A. S. in
facto dic. quod studium, labor & opera ad sanand. vulnera ipsius
W. H. & expensi sui inde rationabilit. valebant 30 s. &c. pre-
dictus tamen W. H. promissionem & assumptionem suas pre-
dictas minime curans, sed machinans & fraudulenter intendens
eundem A. S. in hac parte callide & subdole decipere & de-
fraudare, &c.

For a Labourer's Hire.

M R. queritur de G. N. &c. quod cum predictus G. N. *Ebr. ff.*
die, anno, &c. in consideratione quod predictus M. K.
adtunc & ibidem ad requisitionem ejusdem G. N. defalcavit
quedam jampna vocata *Whins*, ejusdem G. N. tunc crescent,
& existent. in quodam Clauso voc. le O. jacent. infra præcinct.
villæ de H. in Com. predicto, & faceret eadem jampna in fas-
ces jampnos. anglice *Whinkins*, sive fasciculos, super se assump-
sit, ac eidem M. R. adtunc & ibidem fideliter promisit quod
ipse idem G. N. quant. placeret sive contentaretur eidem M. K.
pro opere & labore suis in defalcand. & faciend. dicta jampna
in fasciculos in Clauso predicto tamdiu prefat. M. R. adeo ope-
raret & laboraret pro pred. G. N. cum inde postea requisit.
fuisset, bene & fideliter solvere & contentare vellet. Et pred.
M. R. in facto dicit, quod ipse congruenter defalcavit jampna
pred. & illa fecit in fasciculos pro pred. G. N. in Clauso pre-
dicto per spacium unius diei integri tunc prox. sequent. &
quod optime meruit 12 d. pro stipendio pro opere & labore
suis illius diei & quod 12 d. est rationabilis sum. ei placere &

contentare pro dict. opere & labore diei istius in defalcand. & faciend. Jampna predicta in fasciculos, ut prefertur unde idem G. N. habuit notitiam pred. tamen G. N. promissionem & assumptionem suas pred. minime curans, sed callide & subdole intendens eundem M. R. in premissis decipere & defraudare, licet, &c.

In Consideration that the Plaintiff would deliver unto one E. L. certain Mercery-Wares, if he did not pay for them, the Defendant would.

Ebor. ff.

P. B. Ar. virtute brevis, &c. queritur de H. S. de placito, &c. quod cum die, anno, &c. apud Castrum, &c. In consideratione quod pred. P. B. (tunc & adhuc existent. Metaxar. anglice a Mercer, de Civitate Ebor.) deliberaret E. L. pro usu ejusdem E. L. tales parcelas Mercimoniorum, anglice *Mercery Wares*, quales ipse idem E. L. accipiat & recipiat de pred. P. B. ipse idem H. S. super se assumptis, & eidem P. B. adtunc & ibidem fideliter promisit, quod si pred. E. L. non solveret & satisfaceret dicto P. B. pro pred. Mercimoniis ad talia ratas & precia qualia iidem E. L. & prefat. P. B. consentiant quod ipse idem H. S. bene & fideliterolvere & satisfacere vellet eidem P. B. omnes tales denar. summas quales iidem E. L. & P. B. consentiant pro ratas & precis dictorum mercimoniorum infra dict. diem, annum, &c. & primum diem Maii, tunc prox. sequent. Et pred. P. B. in facto dic. quod postea, scilicet, die, anno, &c. apud Castrum, &c. pred. prefat. E. L. accepit & recepit de pred. P. B. mercimonia inferius mentionata, videlicet, septem virgat. atri pannilanei vocat. *Flanders Serge*, pro 38 s. & quinq; virgat. cujusdam panni lanei vocatur *Italiano* pro 26 s. legalis, &c. que quidem rate & precia adtunc & ibidem concordata fuer. inter dict. E. L. & prefat. P. B. & attingebant in toto ad sum. 3 l. 4 s. &c. quam quidem sum. &c. vel aliquod inde denar. prefat. E. L. nondum solvit vel satisfecit eidem P. R. pred. tamen H. S. promissionem & assumptionem suas pred. minime curans, sed machinans, &c.

Slander for calling the Plaintiff Thief, &c.

Ebor. ff.

E. F. queritur de G. S. de placito, &c. pro eo quod cum pred. E. F. bonus, verus, fidelis & honestus subdit. & ligeus Domini Regis nunc sit, & tanquam bonus servus & fidelis ligeus dict. Domini Regis & progenitorum suorum nuper Regum & Reginarum Angliæ, a tempore Nativitatis sue hucusque se gesserit, habuerit & gubernavit, & bonorum nominis, fame, conditionis, conversationis & reputationis, tam apud venerabiles personas, quam alios fideles subdit. dict. Dom. Regis pro-

progenitorum suorum, quibus idem E. F. not. fuerat ac cum quibus idem E. F. quoquomodo consortium habuerat per totum tempus pred. habit. not. dictus & reputat. fuerat, absq; aliqua macula furti, felonie, latrocinii, aut alicujus alius falsitatis seu criminis nocivi sive suspitione inde hucusq; illatus & intact. semper vixit & remansit. pred. tamen G. S. præmissorum non ignarus, sed machinans & malitiose intendens eundem E. F. non solum in bonis nomine, fama, opinione, credentia, estimatione & reputatione suis, ledere, detrahere, pejorare, & penitus destruere, verum etiam eundem E. F. in perturbationem, vexationem & infamiam, ac bonorum & catallorum suorum forisfactur. inducere die, anno, loco, &c. in Com. pred. ac infra Jur. hujus Curie hæc falsa, malitiosa, & scandalosa verba eidem E. F. & de eodem E. F. in præsent. & audit. quamplurimorum fidelium subditorum dict. Dom. Regis nunc, palam & publice, falso & malitiose dixit, retulit, propalavit & publicavit in his verbis sequentibus, *Thou* (pred. E. F. innuend.) *art a Thief, and I* (pred. G. S. innuend.) *will prove thee* (eundem E. F. innuend.) *a Thief, and a Horse-stealing Thief from thy Cradle.* Quorum quidem falsorum & scandalosorum Anglicanorum verborum dictionis & propalationis pretextu idem E. F. non solum in bonis nomine fama credent. estimation. & reputation. suis pred. multipliciter læsus & deteriorat. existit, verum etiam in magnam infamiam & publicum opprobrium illapsus est, ita quod diversis personis honest. & fidel. subdit. dict. Domini Regis nunc, qui ante illud tempus consortium habere cum eodem E. F. usitat. fuer. & ipsum multopere estimarunt seipsos a consortio & societate ejusdem E. F. retrahunt, & intromittere & commercium habere cum eodem E. F. penitus recusant, ad grave dampnum ipsius E. F. 39 s. Et inde produc. sectam, &c.

For slanderously calling the Plaintiff Bankrupt.

E. B. queritur de E. M. de placito transgr. super Casum Ebor. fl. quod cum pred. E. B. bonus, verus, fidelis & honestus subdit. & ligeus Domini Regis nunc sit, & tanquam bonus, honestus & fidelis subdit. dict. Domini Regis nunc & a tempore Nativitatis sue hucusq; fuit & adhuc existit, sine ulla macula sive suspitione doli, corruption. decoctorem agendi, sive fraudis, vel eorum aliquorum gessit, vixit & gubernavit, & bonorum nominis, fame, credent. & estimationis fiducia, & conservationis magnarumq; copiarum semper adhuc reputat. fuit & nabit. & honeste, juste & fideliter omnibus intromissionibus & negotiis cum quibuscunq; habit. & fact. per totum tempus pred. vixit, & se gessit. Et cum pred. E. B. die, anno, &c. & per spatium decem annorum ult. præterit. & continue postea hucusq; artem, mysterium sive facultatem

Pharmacopolæ, anglice an *Apothecary*, ejusdem Civitatis Ebor. exercuit & usitat. victum suum & sustinent. ipsius & familie sue exercendo & tractando artem mysterium five facultatem pred. per totum tempus pred. bene, copiose & sufficienter acquisivit & lucratur, fuit, ac etiam diversus ingent. denar. sum. licite emend. & vendend. Mercaturam faciend. & barganizand. super credentiam suam diversorum Mercimoniorum & aliarum rerum arti, mysterio five facultati ipsius E. B. pertinent. ad meliorem sustentationem ipsius & familie sue, & ad magnum incrementum divitiarum suarum, iuste & honeste per totum tempus pred. impetravit, ac omnes & singulos denar. summas pro rebus vel mercimoniis quibuscunq; per ipsam de aliquibus personis per totum tempus pred. super credentiam empt. vel recept. vel ullo modo debuit. ipse idem E. B. alicui personæ eidem E. B. sic fidem adhiben. juxta stipulationem & agreement. inter eos concordat. & fact. absque fraude vel dilatione persolvisset; quibus premis, ac etiam ratione honestæ conversationis erga omnes person. ipse idem E. B. suam credent. & bonam opinionem inter omnes vicinos suos ad al. honorabiles person. hujus Regni Angli. quibus not. fuit merito habuit, & sibi lucratur. fuit: pred. tamen E. M. præmissor. non ignarus, sed sortem & conditionem pred. ipsius E. M. malitiose invidens, & machinans, imaginans & fraudulentè intendens dict. stat. nomen, famam credentiam, fiduciam & estimationem ejusdem E. B. ledere & deprivare, & ad faciend. eundem E. B. in penuriam infamiam & indigentiam incidere, & pro viro prave conversationis estimari, ac etiam pro decoctore & viro nullius fidei inter omnes fidel. subdit. dict. Domini Regis, ita quod illi omnes a consortio ipsius E. B. tanquam decoctoris vel viri nulla credenc. digni se ipsos omnino subtraherent & quod omnino cessarent & abstinerent cum eodem E. B. barganizare, emere vel intromittere, postea, scilicet, die, anno, &c. pred. apud Castrum Eborum ac infra Jur. pred. hujus Curiz, hæc falsa, scandalosa & opprobriosa Anglicana verba sequent. de eodem E. B. in præsentia & audit. diversorum dict. Domini Regis nunc fidel. subdit. & credent. dignorum, falso, malitiose & scandalose dixit, retulit, & alta voce propalavit, videlicet, E. B. dictum (E. B. quer. innuend.) *is a Rogar, and a Bankrupt, and I (seipsum E. N. modo defend. innuend.) will prove him one*: quorum quidem falsorum, scandalosorum, & opprobriosorum verborum, dictionis, propalationis & publicationis prætextu idem E. B. non solum in bonis, nomine, fama, credent. fiduc. & estimatione suis pred. multipliciter læsus & scandalizatur. existit, verum etiam de maxima parte proficuo. artis sue pred. deprivat. existit, & penitus spoliatur. eo quod dicti vicini sui & al. fidel. subdit. dict. Domini Regis de prefat. E. B. emere, mercaturam agere, barganizare, vel aliquàlter tractare vel intromittere, omnino diffidunt & recusant, & eundem E. B. pro consumptore, profligatore & detentatore aiar. rerum

rum & denar. reputant, & ipsum talem esse censeunt, per quod pred. E. B. non solum in exercitio & mantentione artis, mysterii, vel facultatis suorum graviter impedit. & status & copia sui magnopere enervat. & consumpt, sed etiam diversis ingent. denar. sum. in & circa defensionem ipsius de premissis pred. super ipsum import. pro recuperatione bonorum hominis, fama, credent. fiduc. & estimationis suorum pred. dispo- nere & erogare, coactus & compulsus fuit. Unde prefat. E. B. dic. quod deteriorat. est, & dampnum habet ad valenc. 200 l. Et inde produc. secundam, &c.

In Consideration that the Plaintiff would marry E. R. the Defendant promised to make him worth 200 l.

W P. &c. queritur de P. W. de placito, &c. eo quod Ebor. ff. cum die, anno, &c. apud Castum, &c. quodam Colloquium habuisti & mot. fuit. int. pred. W. P. & eundem P. W. de & concernen. Maritag. inter prefat. W. P. & quandam E. R. fil. cuiusdam S. R. de &c. in Com. &c. dict. tusque P. W. in consideratione quod prefat. W. P. ad specialem instant. & requisitionem ipsius P. W. iuxta leges & ritus Ecclesiasticos hujus Regni Angl. ex assensu dicti S. R. in uxorem duceret predictam E. R. super se assumpsit, & eidem W. P. adiunc. & ibidem fideliter promisit quod ipsa idem P. W. faceret eundem W. P. valere 200 l. & amplius, immediate post maritag. inter pred. W. P. & eandem E. R. habitum & solum lemnizat. Et pred. W. P. in facto dic. quod ipse sub spe fidel. performanceis & assumptionis. pred. ejusdem P. W. & al. special. instanc. & requisition. dicti W. P. postea, scilicet. die, anno, &c. apud, &c. pred. prefat. W. P. iuxta leges & ritus Ecclesiasticos hujus Regni Angl. ex assensu dicti S. R. in uxorem duxit pred. E. R. pred. tamen P. W. promission. & assumption. suas pred. minime curans, sed machinans & fraudulentem intendens eundem W. P. in hac parte callide & subdole decipere & defraudare pred. W. P. non fecit valere 200 l. &c. & amplius licet postea scilicet. die, anno, &c. apud, &c. pred. per eundem W. P. inde requisit. fuit, sed ad hoc faciend. hucusq; recusavit, & adhuc recusat, ad dampnum, &c.

For stopping up another's Light, for depriving him of Air, and the Passage of Rain.

T P. &c. queritur de A. B. &c. de placito transgr. super casum quare cum pred. T. P. per spacium septem annorum nunc ult. praterit. fuit & adhuc existit seilicet de uno antiquo Messurg. cum pertin. in S. pred. in Dominico suo ut de feodo

seodo. in quo Messuag. p̄fat. T. P. & familia sua per totum tempus pred. inhabitaverunt, & adhuc inhabitant. Ac etiam cum pred. A. B. per sp̄cium trium annorum ult. elaps. fuit & adhuc existit possessionat. de un. al. Messuag. cum pertin. in S. pred. adjacent. & contigue eidem Messuag. ipsius T. P. ex occidental. ejusdem Messuagii ipsius T. P. Ac etiam cum in dicta parte occidental. ejusdem Messuag. ipsius T. P. a tempore cujus contrarii memoria hom. non existit. fuer. & adhuc existunt duæ antiquæ Fenestræ parcell. ejusdem Messuag. ipsius T. P. per quas Fenestras non solum lumen usitat. fuit salubris aer usitat. fuit ingredi in dict. Messuag. pro salubritate ipsius T. P. & familiæ suæ in eodem resident. Et pred. T. P. de Messuag. suo pred. sicut præfertur seist. Et dictus A. B. de dicto Messuag. suo cum pertin. possessionat. idem A. B. præmissorum non ignarus, sed malitiose intendens Fenestras pred. obstruere, & eundem T. P. de lumine & aere salubri pred. Fenestras in Messuag. pred. ipsius T. P. fulgend. & ingrediend. deprivare, tali die & anno, apud S. pred. construxit & erexit, & a tempore illo hucusq; continuavit quandam dom. super pec. terr. vocatur le *Backside*, parcell. dict. Messuag. ipsius A. B. adeo prope eidem Messuag. ipsius T. P. & duobus Fenestris pred. quod non solum duæ Fenestræ pred. obstruēt. fuer. & per illud p̄fat. T. P. & familia sua deprivat. de lumine & aere salubri quæ usitati fuer. per dictas Fenestras in Messuag. pred. ipsius T. P. fulgere & ingredi, sed etiam aquæ pluviales a Messuagio pred. ipsius T. P. caden. impedit. & pluvia in transcundo adeo impedit. ad & subter fundament. ejusdem Messuag. ipsius T. P. Unde Fundament. ejusdem Messuag. labefact. & Messuag. probabiliter ruitur, ad grave damnum ipsius T. P. 20 l. Et inde produc. sextam, &c.

*For teaching the Defendant's Child the Latin
Tongue, &c.*

Libor. 5l.

PG. per I R. Attorn. suum queritur de I. A. de placito. transgr. super Casum, &c. eo quod cum pred. I. A. primo die Aug. anno, &c. apud, &c. in Com. &c. in consideratione quod pred. P. G. pro & durant. tempore 12 mensium & viginti dierum tunc ult. præterit. docuisset & instituisset I. A. fil. natural. ejusdem I. A. in rudimentis & doctrina Linguae Latinæ, & a pred. primo die Augusti, anno pred. apud H. pred. docuisset & instituisset p̄fat. I. S. fil. tamdiu placeret ambabus partibus, in doctrina Linguae Latinæ pred. super se assumpsit, & eidem P. G. adtunc & ibidem fidelit. promissit, quod ipse idem I. A. pater tantas denariorum summas quantas pred. P. pro instructione & doctrina ejusd. I. A. fil. per totum tempus pred. rationab. mereretur eidem P. cum ipse idem I. A.

I. A. pater inde requisit. fuisset, bene & fidelit. solvere & contentare vellet. Et pred. P. G. in facto dic. quod ipse promissioni & assumptioni pred. prefat. I. A. patris fidem adhibens, iussit & docuit eundem I. A. fil. in doctrina pred. a pred. primo die Augusti usq; ad ult. diem Julii, anno, &c. Et quod ipse idem P. pro instructione & doctrina pred. ejusdem I. A. fil. durant. toto tempore pred. existent. duodecim menses & viginti dies rationabilit. meruit. viginti solidos legalis monetæ Angl. pred. tamen I. A. pater promissionem & assumptionem suas pred. minime curans, sed machinans & fraudulentè intendens eundem P. G. &c.

For Diet, and Time given for Payment of the Debt.

N D. per, &c. queritur de I. B. de placito transgr. super Casum, eo quod cum quinto die, &c. apud, &c. pred. I. B. indebitat. fuit eidem N. D. in octodecim solidis, &c. pro cibo & potu quibus prefat. N. D. apud Castrum, &c. ipsum supplevit, & sic indebitat. existent. in consideratione quod pred. N. D. adtunc & ibidem apud Castrum Eborum in Com. Ebor. & infra libertatem & jurisdictionem hujus Curie ad special. instanc. & requisitionem ejusdem I. B. tempus daret pro solutione eorundem 18 s. usque ad prox. diem sequent. ipse idem I. B. super se assumpsit, & eidem N. D. adtunc & ibidem fidelit. promisit, quod, &c. prox. diem bene & fideliter solvere & contentare vellet. Et licet pred. N. D. usque ad prox. diem sequent. & hucusq; precepit solutionem eorum 18 s. pred. tamen I. B. promissionem & assumptionem suas pred. minime curans, sed machinans & fraudulentè intendens eundem N. D. &c.

*Upon an Assumpsit to save one harmless upon
Obligation.*

Ebor. fl.

A B. virtute brevis de Justic. &c. queritur de C. D. de placito cito transgr. super Casum, &c. Eo quod cum pred. A. B. (die & anno) apud Castrum Eborum in Com. predicto, & infra jurisdictionem hujus Curie ad special. instanc. & requisitionem predicti C. D. per scriptum suum obligator. gerent. dar. eisdem die & anno, obligat. fuit una cum predicto C. D. & pro debito ipsius C. D. propriis cuidam E. F. super condition. inde indors. quod si pred. C. D. eidem E. F. ad certum diem in eadem conditione content. 10 l. legalis. &c. solveret, quod tunc scriptum illud vacuum foret & effect. nullius, aliter fraret & remaneret in robore & virtute suis: pred. C. D. postea, scilicet, tali die, anno & loco, &c. in consideratione predicta super se assumpsit & eidem A. B. adtunc & ibidem fideliter pro-

promittit quod predictus C. D. omnibus temporibus tunc postea exoneret pred. A. B. versus pred. E. F. a predicto scripto obligatorio pred. tamen C. D. promission & assumption suas minime curans, nondum exoneravit pred. A. B. a predicto scripto obligatorio licet ad hoc faciend. sepius requirit. per eundem A. B. Unde idem A. B. dic. quod deteriorat. est, & damn. &c.

For keeping a Dog accustomed to bite Sheep.

Ebor. ff.

A B. virtute, &c. queritur de C. D. &c. quod cum predictus C. D. apud M. servabat & retinebat quendam canem ad mordendum oves consuet. sciens canem illum ad mordeudum oves esse consuet. qui quidem canis viginti vervecos, anglice *Weather-sheep*, viginti matrices anglice *Ewes*, & viginti agnellas ipsius A. B. ad valorem x l. apud, &c. pred. onyent. xiii die Maii, anno Regni Domini. nunc Regis Caroli Secundi xiv. tam graviter mordebat, quod ii oves & ii agnell. pred. per morsum ejusdem canis adtunc & ibidem interierunt: Unde idem A. B. dic. quod deteriorat. est & dampnum habet ad valenc. xx l. Et inde produc. sectam. &c.

Another.

A B. virtute brevis, &c. queritur de C. D. de placito &c. quod cum predictus C. D. viii die Junii, anno, &c. apud, &c. quendam canem ad mordendum oves assuet. retinebat. sciens canem, &c. (ut supra) qui quidam canis die & anno apud, &c. predictas oves, scilicet, sexdecim vervecos, & triginti oves matrices, & octo agnellas ipsius A. B. fugavit & momordit, ita quod per fugationem & morsum illa sex de predictis vervicibus, xii de predictis ovicularis, & quatuor de predictis agnellis ad valorem x l. interierunt, & resid. scilicet, octodecim ovicularum gravidarum agnellas suas projecit. abort. Et resid. distorum vervicum multo deteriorat. fuerunt; & alia enormia, &c.

Against an Inn-keeper for a Horse lost.

A B. virtute brevis, &c. queritur de C. D. Hospitatore de placito transgr. super Casum, quod cum secundum leges & consuetudines hujus Regni Angliæ Hospitatores qui communia Hospitia tenent & servant ad Hospitandum viatores per eas partes, ubi hujusmodi Hospitia existunt & in illis Hospitat. preservare tenentur nocteq; dieq; bona sua infra Hospitia illa, abq; aliqua diminutione vel damno, ita quod per default. hujusmodi Hospitatorum vel servient. eorum nullum dam-

nium

num ullo modo contigerit vel acciderit Hospitibus suis. Et cum pred. C. D. ante x diem Marcii, anno, &c. ac eodem x die, &c. commune Hospitium voc. *the Sign of the White Hart in Skipton in Craven*, pred. in Com. pred. & infra jurisdictionem hujus Curie tenuit & servavit, & ipsum eundem A. B. in eodem Hospitio tanquam Hospitem suum adtunc & ibidem accepit. Et prefat. A. B. adtunc & ibidem in Hospitium predictum unum Spadonem albi coloris, precii x librarum importavit, quem quidem Spadonem pred. C. D. in custodia sua adtunc & ibidem recepit & habuit; quidam tamen Malefactores prefat. A. B. incognit. postea, scilicet, predicto x die Marcii, anno predicto Spadonem predictum sub Custodia pred. C. D. in Hospitio pred. existent. adtunc & ibidem inveniunt pro defectu bonae conservationis predicti C. D. & servientium suorum, ceperunt & abduxerunt, contra legem & consuetudinem predictas. Unde idem A. B. dic. quod deteriorat. est & dampnum habet, &c.

Upon a Horse-Race.

G. per I. R. Attorn. suum queritur versus D. M. de placito transgr. super Casum, &c. Eo quod cum (tali die & anno) apud, &c. quoddam colloquium habitum fuit inter pred. G. G. & D. M. concernent. Cursum Equestrem currend. per Spadonem ipsius G. G. & Spadonem ejusdem D. M. a B. predicta, ad quandam domum voc. *Dexes* in Com. predicto; super quod colloquium sic habit. in consideratione quod pred. G. G. ad special. instanc. & requisitionem ejusdem D. M. adtunc & ibidem solvit & deposuit in man. cujusdam *Margarette* uxor. cujusdam I. W. duos solidos & sex denar. legalis, &c. ac etiam in consideratione quod predictus G. G. adtunc & ibidem se obligavit dare & deliberare eidem D. M. pred. Spadonem ipsius G. G. si Spado ille non supercurreret dict. badium Spadonem ejusdem D. M. a B. pred. ad dictam domum voc. *Dexes*. Et quod si predictus G. G. ibidem non relinqueret spiram ejus, anglice *his Hothand*, antequam dictus Spado veniret ad dictam domum voc. *Dexes*, prefat. D. M. xx die Maii anno predicto, apud B. predictum, & infra jurisdictionem hujus Curie super se assumpsit, & eidem G. G. adtunc & ibidem fidelit. promissit, quod si pred. Spado ejusdem G. G. supercurreret dict. Spadonem ipsius D. M. a B. predicta ad dictam domum voc. *Dexes*; & quod prefat. G. G. Spiram suam ibidem relinqueret antequam dictus Spado ipsius D. M. ad dictam domum veniret, quod tunc prefat. D. M. pred. Spadonem ejus eidem G. G. ad usum ipsius G. G. dare & deliberaret, cum idem D. M. inde postea requisit. fuisset. Et pred. G. G. in facto dic. quod. pred. Spado ipsius G. G. adtunc & ibidem

Ebor. ff.

supercurrebat dictum Spadonem ejusdem D. M. a B. predicta ad dictam domum vocatam *Dexes*; & quod ipse idem G. G. relinquebat spiram suam ibid. antequam predictus Spado ipse D. M. veniebat ad dictam domum voc. *Dexes*. Ac etiam cum dicto xx die Maii, anno predicto, apud B. predictam, & infra jurisdictionem predictam, in consideratione quod predictus G. G. ad special. instanc. & requisitionem ipsius D. M. attunc & ibidem solvit & deposuit in man. dict. *Margarette* ux. dict. I. W. duos solidos & sex denar. legalis, &c. Ac etiam in consideratione quod predictus G. G. attunc & ibidem seipsum obligavit solvere pefat. D. M. xx s. consimilis legalis monete, si predictus Spado ejusdem G. G. nou. supercurreret predictum badium Spadonem ipsius D. M. a B. pred. usq; ad dictam domum voc. *Dexes*; & quod pefat. G. G. ibidem non relinqueret spiram suam antequam dictus Spado ipse D. M. veniret ad dictam domum predictus D. M. predicto xx die Maii anno supradicto apud B. predict. infra jurisdictionem pred. super se assumpsit, & eidem G. G. attunc & ibidem fideliter promisit quod si predictus Spado ejusdem G. G. supercurreret predict. Spadonem ipsius D. M. a B. predicta ad domum predictam voc. *Dexes*; & quod predictus G. G. spiram suam ibidem relinqueret antequam predictus Spado ipse D. M. ad domum predictam veniret, quod tunc pefat. D. M. xx s. &c. eidem G. G. cum ipse idem D. M. inde postea requisit. fuisset bene & fideliter solvere & contentare vellet. Et predictus G. G. ut prius in facto dic. quod ejus Spado pred. attunc & ibidem supercurrebat Spadonem predictum ipsius D. M. a B. predicta usque ad domum predictam voc. *Dexes*; & ipse idem G. G. spiram suam ibidem relinquebat antequam dictus Spado ipse D. M. ad domum pred. voc. *Dexes*, veniebat: predictus tamen D. M. promission. & assumption. suas predictas minime curans, sed machinans, & fraudulenter intendens eundem G. G. in hac parte callide & subdole decipere & defraudare, predictum Spadonem ejusdem D. M. eidem G. G. nondum deliberavit, nec pred. xx s. eidem G. G. nondum solvit, seu aliquant. pro eisdem contentavit, licet pred. D. M. postea, scilicet, xxi die Maii, anno, &c. apud B. predict. & infra jurisdictionem predictam, inde requisit. fuit: Unde pred. G. G. dic. quod deteriorat. est, & dampnum habet ad valenc. &c. Et inde produc. sectam, &c.

Another upon a Horse-Race.

Ebor. H.

I H. virtute brevis, &c. queritur de B. D. de placito, &c. I. Eo quod cum xx die Maii, anno, &c. apud Castrum, &c. quoddam Colloquium mot. & habit. fuisset inter pred. I. H. & pefat. B. D. de & concernent. cursum equestr. currend. per

per cesiam equam ipsius I. H. & badium Spadonem ejusdem B. D. ter circa cursum sicut sudibus posit. fuit, voc. a *Town-Race*, existent. super Moram de A. predicta : super quod colloquium adtunc & ibidem concordatum fuit inter predictum I. H. & eundem B. D. quod pefat. I. H. equitaret cursum predictum super eundem cesiam equam ; & quod predictus B. D. equitaret cursum pred. super pred. badium Spadonem ; & quod pred. B. D. & I. H. componderentur, & qui eorum minus foret ponderosus, oneretur tanto ampliori pondere quantum ipsum æqui ponderis cum altero faceret ; & super hoc agreement. pred. I. H. adtunc & ibidem solvit dicto B. D. xx s. Et in consideratione inde idem B. D. adtunc & ibidem super se assumpsit, & eidem I. H. fideliter promisit ei solvere xl s. *Gr.* si pred. cesia equa ipsius I. H. curs. pred. lucraret ; ac etiam quod pred. B. D. curs. pred. curreret tanto pondere quant. ipse careret de pondere dict. I. H. Et pred. I. H. in facto dicit quod pred. I. H. & B. D. adtunc componderat. fuer. & quod pred. B. D. invent. fuit minus ponderosus dicto I. H. viz. quatuordecim libr. ultraq. Et inde dict. B. D. congruenter onerat. fuit pondere, & pred. B. D. adtunc & ibidem dict. curs. cucurrit : pred. tamen B. D. promission. & assumption. suas pred. minime curans, sed machinans & fraudulenter intendens eundem I. H. in hac parte callide & subdole decipere & defraudare, ipse idem B. D. xx die Maii, curs. pred. non cucurrit super dict. badium Spadonem æquo pondere dicto I. H. juxta promission. pred. & postquam cursus finit. fuit pred. B. D. componderari dicto I. H. recusavit, ita quod pred. B. D. eundem I. H. in hoc decepit : Unde dic. quod deteriorat. est & dampnum habet ad valenc. 5 l. Et inde produc. sectam, *Gr.*

For keeping a Child, and finding it Meat, Drink and Apparel.

E B. virtute, *Gr.* queritur de R. E. de placito transgr. su. *Ebor. II.* per Casum, *Gr.* Eo quod cum (tali die & anno) apud, *Gr.* in consideratione quod pred. E. B. ad special. instanc. & requisitionem ejusdem R. E. quend. A. B. fil. dicti R. E. cibo, potu & amictibus competent. manuteneret, & servaret, & aliis necessariis, ita quod dict. puer in defectu ipsius E. B. nec unquam postea eidem R. E. onerosus esset ipse idem R. E. die & anno pred. apud, *Gr.* super se assumpsit, ac eidem E. B. adtunc & ibidem fidelic. promisit, quod ipse idem R. E. 7 l. legal. monetæ Angliæ eidem E. B. cum inde postea requisit. fuisset, bene & fideliter solvere & contentare vellet. Et pred. E. B. in facto dic. quod ipsa eadem E. B. eundem A. B. a die & anno pred. hucusq. cibo, potis amictibusq. competent. & aliis necessariis manutenuit & servavit, ita quod pred. puer extunc

tunc hucusq; pred. R. E. non oneravit : pred. tamen R. E. promiss. & assumpt. &c.

For Breach of Agreement, in not taking the Son Apprentice.

B F. per. breve, &c. queritur de T. F. de placito transgr. super Casum, &c. Eo quod cum primo die Marcii, &c. anno, &c. apud, &c. in consideratione quod pred. B. F. super se assumpsit, & eidem T. F. 13 l. &c. promissit, quos ipse postea & ante comensationem hujus sectæ, solvit eidem T. F. prefat. T. F. super se assumpsit & eidem B. F. adtunc & ibidem fideliter promissit, quod ipse prefat. T. F. quendam W. F. fil. ejusdem B. F. pro Apprentic. suo acciperet servire pred. T. F. in arte sive mysterio Pellionis, a pred. primo die Marcii, usq; ad plenum finem & terminum septem annorum, extunc prox. sequent. & quod pred. T. F. post finem trium quarter. un. anni prox. post pred. primum diem Marcii, institueret, informaret, & educaret eundem W. F. in arte emend. & vendend. lan. apud L. in Com. Ebor. vel consimiles al. locos ubi pred. T. F. adtunc frequentabat vel postea frequentaret durant. termino pred. Et quod pred. T. F. durant. termino pred. non causaret vel cogeret pred. W. F. ad aliquod servile opus faciend. circa eundem mysterium Pellionis : & quod pred. T. F. durant. termino pred. inveniret prefat. W. F. cibatum, potum, amicta, lintea, & lanea, tibialia, calceos ac omnia alia necessaria pro Apprentic. habere ; & quod pred. lint. lan. tibialia, calcei, ac omnia alia necessaria a tempore in tempus provisi erint invent. pro pred. W. F. per eundem T. F. tam bon. quam ipse idem W. F. haberet tempore advent. ejus eidem T. F. Et sic daret ei simil. ad finem pred. termini septem annorum : Et quod pred. T. F. sigillaret & deliberaret eidem W. P. un. indentur. scrip. pro performatione convention. pred. & al. usual. convention. de Apprentic. in eo genere : pred. tamen T. F. promission. & assumptionem suas pred. minime curans, sed machinans, & fraudulent. intendens eundem B. F. in hac parte callide & subdole decipere & defraudare pred. W. F. Apprentic. suum esse ad serviend. eidem T. F. in arte sive mysterio Pellionis non accepit durant. termino pred. sed eum Apprentic. suum esse accipere recusavit secund. promissionem pred. quamvis pred. W. F. parat. fuit & obtulit servire pred. T. F. in dicto mysterio secund. convention. pred. neq; pred. T. F. unquam post pred. tres quarter. un. ann. instituit, informavit, vel educavit pred. W. F. in mysterio sive arte emend. & vendend. lanas apud L. pred. vel alios locos, prout pred. T. F. tunc frequentabat secundum promissionem pred. licet saepius requirit. neque pred. T. F. sigillabat & deliberabat Indentur.

Script. eidem W. F. pro performance convention. pred. ac al. usual. convention. de Apprentic. in eo genere; quamvis ult. die Septembris, anno, &c. apud Castrum Eborum in Com. Ebor. & infra Jurisdictionem hujus Curie pred. B. F. obtulit eidem T. F. Indentur. script. ad eundem propositum & requisivit pred. T. F. eundem pred. W. F. deliberare. Unde pred. W. F. dic. quod deteriorat. est. & dampnum habet ad valenc. xx l. Et inde produc. sectam, &c.

Upon a Promise for over-loading a Horse.

Per breve, &c. queritur de D. de placito, &c. Eo quod cum pred. D. tali die, anno & loco, in consideration. quod prefat. P. ad special. instanc. & requisitionem ipsius D. accommodaret eidem D. quandam Equam ipsius P. ita quod quidam G. D. filius ipsius D. super eandem equam equitet & itineretur a villa de L. in Com. pred. usq; ad B. in Com. Lancastrie, super se assumpsit ac eidem P. adtunc & ibidem, scilicet, (tali die, anno & loco pred.) fideliter promisit quod pred. G. D. eqdam pred. in itinere pred. nullo modo superoneraret: vel aliququaliter opprimeret sed eandem equam cum inde requisit. fuisset eidem P. incolumem deliberaret: & pred. P. in facto dic. quod ipse promission. & assumption. prefat. D. fidem adhibens, postea, scilicet, (pred. die, anno & loco) equam pred. prefat. D. accommodavit, ita quod pred. G. D. equitet & itineretur super eandem equam, ut praefertur pred. tamen G. D. equam pred. in itinere pred. superlaborabat, & talibus oneribus praegravabat, quod equa pred. per superoperationem, & equitationem pred. interiit; ad dampnum ipsius P. x l. Et inde produc. sectam, &c.

Promise to save harmless upon a Bond.

R. R. virtute brevis, &c. queritur de C. L. de placito transgr. super casum, &c. quare cum pred. C. L. tali die & anno, &c. apud, &c. in consideratione quod pred. R. R. adtunc & ibidem ad special. instanc. & requisition. ipsius C. L. teneri & obligari vellet quidam G. W. per quodd. script. suum obligator. debet. forma juris faciend. sigillat. & ut fact. ejus deliberand. in 24 l. bone, &c. sub condition. pro solutione 12 l. 12 s. consimilis, &c. eidem G. W. super primum diem Maii, tunc prox. sequent. apud vel in tunc dom. mansional. pred. G. W. scituat. in, &c. per pred. R. R. & C. D. vel eorum alter. faciend. super se assumpsit, & eidem R. R. adtunc & ibidem videlicet, tali die, anno, &c. pred. apud L. pred. scilicet, in, &c. pred. fideliter promisit quod prefat. C. L. pred. 12 l. 12 s. eidem G. W. super pred. primum diem Maii.

Maii in exoneration. script. obligator. pred. solvere vellet : & pred. R. R. extunc postea, de & concernent. script. obligator. pred. indempnem & sine dispendio servare & præstare vellet. Et pred. R. R. in facto dic. quod ipse promission. & assumption. ipsius C. L. pred. fidem adhibens, postea, scilicet, eodem ult. die O. anno, &c. pred. apud L. &c. ad instantiam & requisitionem ejusdem, una cum prefat. C. L. pro debito peculiar. & propr. ipsius C. L. per script. suum obligator. debita forma juris fact. sigillat. & ut fact. suum deliberatum obligat. devenit in pred. 24 l. sub condition. solutionis pred. 12 l. 12 s. eidem G. W. super pred. primum diem Maii, modo & forma pred. faciend. pred. tamen C. L. promission. &c. minime curans, sed machinans, &c. defraudare pred. 12 l. 12 s. eidem G. W. super predict. primum diem Maii, secundum formam & effectum conditionis pred. nondum solvit, aut eundem G. W. pro eisdem aliququaliter contentavit, nec eundem R. R. de & concernent. script. obligator. pred. indempnem & sine dispendio servavit & præstitit, licet ad hoc faciend. prefat. L. postea, scilicet, (tali die, anno & loco) pred. per eundem R. C. requisit. per quod & quia pred. 12 l. 12 s. prefat. G. W. super pred. primum diem Maii, secundum formam & effectum condition. pred. insolut. fuer. pred. G. W. postea, scilicet, (tali termino & anno) in Curia, &c. coram, &c. implacitavit eundem R. R. de & super script. obligator. pred. de pred. 24 l. Et placit. illud in tant. prosecut. fuit, quod idem R. R. non solum 15 libras de & super script. obligator. pred. prefat. G. W. solvere coact. & compuls. fuit, sed etiam diversas denar. sum. circa defension. secte pred. expendere & erogare compuls. fuit : Unde dic. quod deteriorat. est, & dampnum habet ad valenc. &c.

Trover.

I B. virtute brevis, &c. queritur de I. C. de placito transgr. super Casum. Eo quod cum pred. I. B. die anno, &c. apud Castrum, &c. possess. fuisset de un. cesia Equa, anglice *one grey Mare*, prec. x l. ut de bonis & catallis suis propriis, & sic inde possessionat. pred. I. B. die, anno, &c. pred. Equam extra man. & possession. suas casualiter perdidit & amisit; quæ quid. equa postea, scilicet, die, anno, &c. apud Castrum, &c. ad man. & possession. ipsius I. C. devenit : pred. tamen I. C. cert. scien. equam pred. fore equam ipsius I. B. & ad ipsum de jure spectare, & machinans eundem I. B. de pred. Equa decipere, licet sæpius requisit. &c. pred. equam eidem I. B. non deliberavit sed prefat. I. C. postea, scilicet, die, anno & loco, &c. eandem equam in usum & commod. suum proprium disposuit & convertit, ad grave dampnum ipsius I. B. Unde dic. quod deteriorat. est & dampnum habet ad valenc. xx l. Et inde produc. sectam. *Delinue.*

Detinue.

T V. virtute brevis, &c. per E. B. Attorn. suum queritur de R. M. de placito quod reddat ei bona & catalla ad valenc. xx l. &c. quæ ei injuste detinet, &c. pro eo quod cum pred. T. V. die, anno, &c. apud Castrum Eborum deliberavit eidem R. M. un. vacc. nigri coloris, precii C s. un. cesium Equulum, anglice *a gray Nag*, precii x l. & xiv virgat. gallici viridis panni lat. anglice *French green Broad-Cloth*, ad valenc. C s. pro eodem T. salvo custodiend. & eidem T. V. cum ipse idem R. M. inde requisit. fuisset deliberand. pred. tamen R. M. licet sæpius inde requisit. bona & catalla predicta eidem T. V. nondum redeliberaverit, sed illa ei hucusq; redeliberare contradixit, & adhuc contradicit & injuste detinet. Unde pred. T. V. dic. quod deteriorat. est & dampnum habet ad valenc. x l. Et inde produc. sectam, &c.

I. B. per T. W. Attorn. suum queritur de C. F. de placito transgressionis super Casum, &c. pro eo viz. quod cum pred. C. F. (die & anno) apud S. in Com. pred. ac infra jurisdictionem hujus Curie in consideratione quod ipse idem I. B. ad speciales instantiam & requisitionem predicti C. F. assignaret prefato C. F. remaner. termini sui duorum annorum quod habuit in uno Clauso prati cum pertin. jacen. & existen. in S. pred. in Com. pred. ac infra Jurisdictionem pred. ante vicesimum quintum diem Martii tunc instantis super se assumpsit & eidem I. B. adtunc & ibidem fideliter promisit quod ipse idem C. F. triginta solidos legalis, &c. eidem I. B. ad sigillationem ejusdem assign. bene & fideliter solvere & contentare veller. Et idem I. B. in facto dicit, quod ipse idem I. B. postea & ante pred. 25 diem Martii pred. scil. 20 die Martii, anno regni Domini Regis nunc vicesimo nono supradict. apud S. pred. ac infra, &c. per scriptum suum sub sigillo ipsius I. B. assignavit eidem C. F. remaner. termini sui pred. in Clauso pred. ad pred. instantiam & requisitionem dicti C. F. predictus tamen C. F. promissionem & assumptionem suas predictas minime curans, &c. pred. triginta solidos eidem I. B. non solvit. &c.

A. B. per I. S. Attorn. suum queritur de E. F. de placito transgressionis super Casum, &c. pro eo videlicet quod cum idem A. B. (die & anno) apud Castrum Eborum in Com. pred. ac infra Jurisdictionem hujus Curie emebat de eodem E. F. duos boves pro quadam pecunie summa adtunc & ibidem eidem E. F. per ipsum A. B. agreeat. solvend. prefat. E. F. in consideratione inde super se assumpsit & eidem A. B. warrantizabat quod predicti duo boves ad hauriend. apti & assueti fuissent & in hauriend. quieti & ordinati forent ubi revera boves

ves pred. ad hauriend. minime apti aut affocti fuissent & tunc in hauriendo furiosi inquiet. & inordinati fuerunt, & adhuc existunt. Et sic predictus E. F. ipsum A. in venditione duor. bovirum pred. callide & subdole adtunc & ibidem decepit & defraudavit per quod diversa ardua negocia ipsius A. in Agricultura per spacium quatuor mensum infecta remanser. ad dampnum, &c.

A. B. per T. W. Attorn. suum queritur de C. B. de placito transgressionis super Casum, &c. pro eo videlicet quod cum predictus A. (die & anno) apud C. in Com. pred. ac infra Jurisdictionem hujus Curie arrestat. fuit ad sextam prefati C. pro certo debito decem librarum, cumq; etiam postea scil. (die & anno) apud C. pred. ac infra Jurisdictionem pred. quedam communicatio habita & mota fuisset inter eundem C. & prefatum A. concernent. solutionem vel depositionem anglie *tender* pred. sum. decem librarum utrum eadem solutio sive depositio fuit facta ante arrestationem illam idemq; C. eisdem die & anno supradict. apud C. pred. ac infra, &c. in consideratione quinq; solidorum legalis monete Anglie per prefatum A. eidem C. adtunc & ibidem in manibus solut. super se assumpsit, & eidem A. adtunc & ibidem fideliter promissit quod ipse idem C. vigint. solidos consimilis monete Anglie prefato A. cum inde requisit. esset bene & fideliter solvere & contentare vellet, si pred. sum. decem librarum per eundem A. solut. fuisset seu deposit. anglie *tender*, pred. C. ante arrestationem predictam. Et predictus A. in facto dicit quod eadem summa decem librarum, adtunc & ibidem per eundem A. solut. fuisset vel deposit. anglie *tender*, eidem C. ante arrestationem illam pred. tamen C. promission. & assumption. suas pred. ut prefertur fact. minime curans, &c. predict. viginti solidos eidem A. non solvit nec pro eisdem aliquantulum contentavit, licet ad hoc, &c.

For breaking the Plaintiff's Stall in the Market, and assaulting him.

A. O. queritur de W. C. de placito transgr. Eo quod pred. W. C. die, anno, &c. apud S. in Com. predicto, & infra Jurisdictionem hujus Curie super ipsum A. O. insult. sec. & repositorium, anglie *a Stall*, ibidem in Mercato posit. & erect. fregit & intravit, & mercimonia sua videlicet, alutam, anglie *dress Leather*, ad valenc. C. s super repositorio suo predicto imposuit. disposuit prostrernavit & spoliavit, & al. enormia

mia ei intulit, ad grave dampnum ipsius A. O. Unde dic. quod deteriorat. est & dampnum habet ad valenc. x l. Et inde produc. sectam, &c.

For breaking the Plaintiff's Close, &c.

I A. queritur de T. S. de placito transgr. &c. Eo quod cum pred. T. S. die, anno, &c. quoddam clausum ipsius I. A. voc. C. apud S. in Com. &c. fregit & intravit, & herbam ipsius I. A. adtunc & ibidem crescen. valor. x s. cum quibusdam averiis, videlicet, vaccis, bobus, juvenc. equis, porcis & bidentibus depast. fuit, conculcavit, consumpsit & spoliavit, transgressionem pred. a pred. die, anno, &c. pred. durant. termin. unius mensis integr. tunc proxim. sequent. diversis diebus & vicibus continuand. ac alia enormia ei intulit, ad grave dampnum ipsius I. A. Unde dic. quod deteriorat. est & dampnum habet ad valenc. xxxix s. Et inde produc. sectam, &c.

For a Dog biting of a Mare, so that she died.

H S. queritur de W. P. de placito transgr. Eo quod cum W. P. die, anno, &c. apud, &c. unam Equam ipsius H. S. prec. x l. adtunc & ibidem invent. verberavit, vulneravit & fugavit, ac cum quodam cane momordit ita quod ratione pred. verberationis, fugationis, vulnerationis, & morsus ejusdem equæ, pred. equa adtunc & ibidem interiit : Et alia enormia ei intulit, ad grave dampnum, &c.

For chasing of Hogs with Dogs, &c.

A B. querit. de C. D. de placito transgr. &c. eo quod pred. defend. duos porcos ipsius A. B. apud M. invent. quibusdam canibus fugavit, ita quod ratione inde pred. porci prec. xl s. interierunt : & al. enormia, &c.

For pasturing Sheep in a rotten Pasture, by reason whereof they died.

A B. queritur de C. de placito transgr. &c. quod, &c. claus. ipsius A. B. apud L. fregit. & 260 oves ipsius A. B. prec. xl l. ibid. nuper invent. cepit & effugavit eos in quendam insalubr. pastur. infra vill. pred. & ex malicia sua eosdem oves tamdiu detinuit super pastur. pred. quod illi oves insalubritate illius pastur. putrid. & insalubres existent, interierunt & al. enormia, &c.

For digging and ploughing the Plaintiff's Ground, and taking away his Corn.

T S. queritur de G. G. de placito transgr. &c. quod pred. G. G. die, anno, &c. claus. ipsius T. S. existent. un. acr. terre arabil. jacent. in B. fregit & intravit, & solum ejusdem Clausi aratro suo effodit & proscidit; & postea, scilicet, die, anno, &c. pred. apud B. pred. & infra jurisdictionem pred. quod pred. G. G. clausum pred. ipsius T. S. fregit & intravit, & Garbas suas, scilicet, duas carectatas avenarum ipsius T. S. ibidem nuper defalcavit. ad valenc. xxx s. cepit & asportavit; & al. enormia ei intulit, &c.

For taking away a Post.

A B. queritur de C. D. de placito transgr. &c. quare clausum ipsius A. B. apud E. fregit & quend. nov. postem ipsius A. B. in sol. posuit. & affixum, ad valenc. xxx s. cepit & asportavit, & alia enormia, &c.

For eating the Grass, cutting the Hedges, and assaulting the Plaintiff.

A B. &c. queritur de C. D. de placito transgr. &c. quare cum pred. C. D. x die Maii, anno, &c. apud Castrum, &c. in Com. pred. & infra Jurisdictionem hujus Curie clausum ipsius A. B. apud S. fregit & intravit, & herbam suam ad valenc. xxx s. ibidem nuper crescent. cum quibusdam averiis, videlicet, equis, &c. depast. fuit, conculcavit & consumpsit; ac etiam in ipsum A. B. adtonc & ibidem insult. sec. & ipsum verberavit, & male tractavit, ita quod de vita ejus desperabatur; necnon sepes suas ibid. prostravit; & al. enormia, &c. ad grave dampnum ipsius A. B. xxxix s. xi d. Et inde producit sectam, &c.

Trespas and Assault.

I H. queritur de I. S. de placito transgr. & insult. &c. Eo quod prod. I. S. die, anno, &c. apud Castrum Ebor. insult. & assraiam fecit in ipsum eundem I. H. ipsum adtunc & ibidem verberavit, & male tractavit, ita quod de vita ejus desperabatur; & al. enormia ei intulit ad grave dampnum ipsius I. H. &c. Unde dic. quod deteriorat. est, &c. xxx s. Et inde produc. sectam, &c.

Affault upon one that is under Age.

W E. qui per A. S. proximum amicum suum, ex gratia
hujus Curie admissus est ad prosequend. pro predicto
W. E. quia infra etatem xxi annorum existit, virtute brevis
de Justic. queritur versus T. C. de placito transgr. & insult.
&c. Eo quod pred. T. C. die, anno, &c. in & super pred.
W. E. insult. & affraiam fecit, &c. ut in alio.

Upon a Replevin.

A B. queritur versus T. L. de placito, quare averia ipsius
A. B. cepit, & ea injuste detinuit, contra vad. & pleg.
&c. Pro eo quod pred. T. L. die, anno, &c. apud S. &c. in
quodam loco ibid. vocat. R. in Com. predicto, &c. Averia
ipsius A. B. videlicet, sept. vacas ad valenc. xxx l. cepit; &
ea injuste detinuit, contra vad. & pleg. quousq; &c. Unde
predictus A. B. dic. quod deteriorat. est & damn. habet ad
valenc. 49 s. Et inde produc. sectam, &c.

Placita Nil debet.

E T. pred. A. B. ven. & defend. vim & injur. quando, &c. &
dic. quod pred. I. G. action. suam pred. vers. cum habere
non debet, quia dicit quod ipse idem A. B. non debet prefato
I. G. pred. xx s. nec aliquem denar. inde, prout pred. I. G.
superius vers. pred. A. B. narravit: & de hoc pon. se super
patriam, &c.

Non Assumpsit.

E T. pred. H. B. ven. & defend. vim & injur. quando, &c. &
dic. quod ipse non assumpsit super se modo & forma pro-
ut pred. T. R. versus eum narravit: Et de hoc ponit se super
patriam, &c.

Non Assumpsit infra sex annos.

E T. pred. W. B. ven. & defend. vim & injuriam quando, &c.
& dic. quod ipse idem W. B. ad aliquod tempus infra sex
annos prox. ante diem impetrationis querela pred. T. B. non
assumpsit super se modo & forma prout pred. T. B. superius
versus eundem W. B. narravit: Et de hoc pon. se super pa-
triam, &c.

Ne unques Executor.

E T. pred. B. H. ven. & defend. vim & injur. quando, &c. & dic. quod pred. T. C. actionem suam pred. versus eum habere non debet, quia dic. quod ipse nunquam fuit Executor testamenti & ultimæ voluntatis pred. R. H. nec aliqua bona seu catalla quæ fuer. ejusdem R. H. tempore mortis suæ ut Executor testamenti & ultimæ voluntatis pred. R. H. post mortem ipsius R. H. unquam administravit; & hoc præfat. E. H. parat. est verificare: Unde pet. Judicium si pred. T. C. actionem suam pred. versus eum habere sive manutenere debeat, &c.

Plene Administravit.

E T. pred. A. M. ven. & defend. vim & injuriâ quando, &c. & dic. quod pred. A. B. actionem suam pred. versus eum habere non debet, quia dic. quod ipse plene administravit omnia bona & catalla quæ fuer. pred. T. A. tempore mortis suæ, & quod ipse nulla habet bona & catalla quæ fuer. pred. T. A. tempore mortis suæ in manibus suis administrand. nec habuit tempore intrationis hujus loquel. ipsius A. B. nec unquam postea; & hoc parat. est verificare: unde pet. judicium si pred. A. B. actionem suam pred. versus eum habere debeat, &c.

Replication.

E T. pred. A. B. dic. quod ipse per aliqua præallegat. ab actione sua pred. habend. præcludi non debet, quia dic. quod præfat. M. A. die intrationis hujus loquelæ, scilicet, die, anno, &c. apud Castrum pred. & infra Jurisdictionem pred. diversa bona & catalla habuit quæ fuer. pred. T. A. tempore mortis suæ in manibus suis administrand. ad valenc. debiti pred. unde eidem A. B. de debito pred. satisfecisse potuit; & hoc pet. quod inquiratur per patriam: Et pred. M. A. similiter, &c.

Non culp.

E T. pred. G. W. ven. & defend. injur. quando, &c. & dic. quod ipse in nullo est culpabilis de transgr. pred. prout pred. I. C. superius versus eum narravit: Et de hoc pon. se super patriam, &c.

Solvit

Solvit & Release.

E T. pred. I. S. ven. & defend. vim & injuriam quando, &c. Et dic. quod pred. I. W. actionem suam predictam versus præfat. I. S. habere non debet, quia dic. quod pred. I. W. post confessionem ejusdem billæ, & ante inceptiorem hujus sectæ, videlicet, die, anno, &c. apud Castrum, &c. per quoddam script. suum, &c. cognovit & confessus est se fore plenar. satisfact. & contenti de pred. summa C. in billa predicta mentionat. & inde acquietavit & relaxavit eundem I. S. de & ab omnibus actionibus quas pred. I. W. versus eundem I. S. ratione confession. billæ pred. habere potuit; & hoc parat. est verificare; unde pet. judic. si pred. I. W. actionem suam pred. versus eum habere debet, &c.

Liberum tenementum.

E T. pred. H. S. ven. & defend. injur. quando, &c. Et dic. quod predictus W. B. actionem suam pred. versus eum habere sive manuteneere non debet, quia dic. quod clausum pred. voc. T. apud E. in narratione superius mentionat, in quo transgr. pred. suppon. fieri, est & predicto tempore quo supponitur transgr. pred. fieri, fuit solum & liberum tenementum ipsius H. S. per quod pred. H. S. fregit, & intravit in claus. pred. voc. T. & blada & herbam ibidem crescent. & existent. pedibus ambulando conculcavit & consumpsit ac al. blada, herb. & fen. in clauso pred. existent. cum equis, bobus & vaccis depast. fuit, conculcavit & consumpsit transgr. predict. prout in narratione predicta superius specificat. continuand. prout ei bene licuit; & hoc parat. est verificare; unde pet. judic. si pred. W. B. actionem suam pred. versus eum habere debet, &c.

Plea al. Jurisdiction.

E T. pred. G. F. in propria persona sua ven. & dic. quod Curia hic in querela predicta versus eum procedere non debet, quia dicit quod actio pred. est placit. ad reddend. comput. &c. Unde pred. G. F. pet. judic. si ista Cur. placit. pred. cognoscere velit, &c.

pet. iudicium, & debet. suum pred. una cum dampnis suis occasione detentionis debiti illius, sibi adjudicari, &c.

Rejoinder.

ET. pred. W. G. dic. quod ipse (*recite here that he did perform the Breach which the Plaintiff assigned*) secund. vim & effectum dictorum articulorum; & de hoc pon. se super patriam: Et pred. C. G. similiter, &c.

Nil detinet.

ET. pred. R. S. ven. & defend. vim & injuriam, quando, &c. & dic. quod ipse catalla pred. prefat. R. L. non detinet, neq; aliquam parcell. in modo prout pred. R. L. superius vers. eum narravit; & de hoc pon. se super patriam, &c.

Bar per Acquittance.

Quando, &c. actionem suam habere non debet, &c. quia dic. quod post confessionem scripti pred. (scilicet) die, anno, &c. querens per quandam billam suam acquietanc. quam dict. defendens sigillo querentis signat. hic in Cur. profert, cujus dat. est eisdem die & anno acquietavit & exoneravit ipsum eundem defendentem per nomen, &c. de omnibus actionibus, placitis, demand. debitis, computis & litibus a principio mundi usque diem dat. ejusdem billæ; & hoc, &c. si iudicium, &c.

Replicatio.

Querens dic. quod præcludi non debet, &c. quia dic. pred. billa acquietanc. non est factum suum; Et hoc pet. &c.

Justification de Slander.

ET. &c. quando, &c. Et dic. quod. pred. G. L. actionem suam pred. versus eum habere non debet, quia dic. quod ante diction. scandalosorum verborum pretens. in narratione pred. mentionat. (videlicet) die, anno, &c. apud, &c. pred. G. L. an. vervetem, anglice a *Weather-sheep*, ad valenc. x s. &c. de bonis & catallis ipsius H. A. in narratione pred. mentionat. adtunc & ibidem invent. felonice furavit, cepit & asportavit. contra pacem Dom. Regis, nunc, &c. prætextu cujus pred.

dictus F. G. postea, scilicet, die, anno, &c. apud, &c. scandalosa verba pretenf. in narratione pred. mentionat, dixit, affirmavit & declaravit eidem L. G. videlicet, *Thou* (prefat. L. G. innuend.) *art a Thief, and stole H. A's Sheep*: Et hoc parat. est verificare; unde pet. iudicium, si pred. L. G. action. pred. inde versus eum habere debet, &c.

Tender amends in Replevin.

E T. pred. H. dic. &c. iust. caption. &c. advocare non debet, quia dic. quod post tempus pred. caption. averior. pred. in loco pred. in quo, &c. & ante diem emanationis precept. de replegiar. ipsius H. scilicet, die, anno, &c. predict. apud W. pred. prefat. H. obtulit xii d. ad solvend. eidem W. & I. ad usum ejusdem W. pro dampnis ipsius W. quæ sustinuit occasione transgr. pred. quam averia predicta in predictis duabus acris terræ fecer. qui quidem xii d. fuer. suffic. emend. pro transgr. pred. quam averia pred. in predictis duabus acris terr. fecer. quos quidem xii d. pred. W. & I. adtunc & ibidem de eodem H. recipere penitus recusabant: & hoc, &c.

Solvit to part, and Tender to other Part.

E T. &c. quando, &c. & dic. quod pred. I. G. actionem suam pred. versus eum habere seu manutenere non debet, quia quoad xx s. parcellæ, &c. idem I. dic. quod prefat. I. A. die, anno, &c. ante inceptum hujus actionis bene & fideliter solvit eidem I. G. xx s. part. supra mentionat. debet. in narratione predicta specificat. videlicet, apud B. pred. & infra jurisdiction. hujus Cur. Et quoad quinq; solid. & sex denar. resid. debiti, in narratione pred. specificat. idem I. A. ulterius dic. quod ipse postea, scilicet, die, anno, &c. pred. ante inceptum hujus actionis apud B. pred. obtulit eidem I. G. pred. quinque solid. & sex denar. quos quidem quinq; solid. & sex denar. idem I. G. adtunc & ibidem acceptare recusavit: Et hoc prefat. I. A. parat. est verificare, & pet. judic. Cur. si pred. I. G. actionem suam predictam versus eum habere debeat, &c.

Replication.

E T. pred. I. G. quoad platum prefat. I. A. quoad pred. xx s. parcell. debiti pred. & dic. quod ipse per aliqua præallegat. ab actione sua pred. versus eum habend. præcludi non debet, quia dic. quod pred. I. A. non solvit pred. xx s. eidem

I. G.

I. G. prout pred. **I. A.** superius allegavit ; & hoc pet. quod inquiratur per patriam : & pred. **I. A.** similiter, &c.

Et quoad pred. placit. ejusdem **I. A.** quod pred. quinq; solidi, & sex denar. resid. debiti predicti pred. **I. G.** dic. quod pred. placitum ejusdem **I. A.** modo & forma pred. placitat. & mater. in eodem content. non est sufficiens in lege ab actione sua pred. versus eundem **I. A.** habend. præcludend. Et quod placito pred. modo & forma pred. placitat. necesse non habet, neque tenetur per legem respondere ; unde pro defectu sufficient. responsonis in hac parte, pred. **I. G.** pet. judicium, & pred. § s. 6 d. resid. debiti sui pred. una cum dampnis suis, occasione detentionis debiti illius sibi adjudicari, &c.

Demur to
the other
Plea.

Non est factum.

E T. &c. quando, &c. Et dic. quod ipse de debito pred. virtute scripti pred. onerari non debet, quia dic. quod script. pred. non est factum suum ; Et de hoc pon. se super patriam, & pred. **A.** similiter, &c.

Per minas.

E T. &c. quando, &c. Et dic. quod pred. **A.** actionem suam pred. versus eum habere non debet quia dic. quod pred. **A.** tempore confessionis script. pred. apud **N.** pred. eidem **B.** tales & tantas minas de vita sua, & mutilatione membrorum suorum sibi inferend. imposuit, nisi ipse script. pred. prefat. **A.** facere & sigillare vellet, quod idem **B.** script. illud. ob. met. minar. illar. prefat. **A.** adtunc & ibidem fecit ; Et hoc parat. est verificare ; unde pet. judicium si pred. **A.** actionem suam pred. virtute scripti pred. versus eum habere debeat, &c.

Replication.

E T. pred. **A.** dic. quod ipse per aliqua præallegat. ab actione sua pred. habend. præcludi non debet, quia dic. quod pred. **A.** tempore confessionis scripti pred. fuit sui juris ad largum, & scriptum illud ex mera & spontan. voluntate sua prefat. **A.** fecit, & non ob metum minarum prout pred. **R.** placitando allegavit ; Et hoc pet. quod inquiratur per patriam : & pred. **B.** similiter, &c.

Per Duress.

ET, &c. quando, &c. Et dic. &c. quia dic. quod tempore confessionis scripti pred. imprisonat. fuit per eundem A. & al. de covina sua, videlicet, apud N. pred. & ibid. in prisona detent. quousq; idem B per vim & duritiem imprisonament. illius script. illud adtunc & ibidem eidem A. fecerat; Et hoc parat. est verificare; unde pet. iudicium, &c.

Replicatio.

ET pred. A. dic. quod ipse, &c. quia dic. quod pred. B. tempore confessionis scripti pred. fuit sui juris ad largum, & extra quamlibet prison. & script. illud ex mera & spontanea voluntate sua eidem A. fecit, & non per vim & duritiem imprisonament. prout prefat. B. superius allegavit: Et hoc pet. quod inquiratur per patriam: Et pred. B. similiter, &c.

De son assault demesne.

ET, &c. quando, &c. Et quoad transgr. & insult. pred. superius fieri supposit. idem I. R. dic. quod pred. R. W. actionem suam pred. versus eum habere non debet, quia dic. quod pred. R. W. die, anno, &c. pred. in ipsum I. R. apud Castrum, &c. insult. fec. & ipsum verberasse, vulnerasse, & male tractasse voluit, per quod idem I. R. seipsum erga prefat. R. W. adtunc & ibidem defendebat: & dic. quod dampnum & malum si quod eidem R. W. adtunc & ibidem evenit, hoc fuit de insult. ipsius R. W. propr. & in defensione ipsius I. R. Et hoc parat. est verificare; unde pet. iudic. si pred. R. W. actionem suam pred. versus eum habere debeat, &c.

Replic.

ET pred. R. W. dic. quod ipse per aliqua præallegat. ab actione sua pred. habend. præcludi non debet, quia dic. quod pred. I. R. die, anno, &c. supradict. apud, &c. in narratione sua pred. superius specificat. vi & armis, &c. de injuria sua propria & absq; causa per prefat. I. R. superius allegat. in ipsum R. W. insult. fec. & ipsum verberavit, vulneravit, & male tractavit: Ita quod de vita ejus desperabatur, contra pacem Domini Regis nunc: prout idem R. W. superius versus eum queritur: Et hoc pet. quod inquiratur per patriam, & pred. I. R. similiter; Ideo, &c.

Quod

*Quod quer. est infra etatem, & debuit prosequi per
proximum amicum.*

ET quando, &c. Et dic. quod pred. I. R. actionem suam
pred. versus eum habere non debet, quia dic. quod pred.
I. R. die & anno in narratione specificat scilicet die, anno.
&c. & die emanationis brevis de Justic. ipsius I. R. scilicet die,
anno, &c. fuit infra etatem viginti & unius annorum; Et
quod pred. I. R. versus eundem P. G. narravit in loquela pred.
per Attorn. suum, cum per debuit. form. Legis narrasse debuit
per proximum amicum suum; Et hoc parat. est verificare;
unde pet. iudicium si pred. I. R. actionem suam pred. versus
eum habere debeat, &c.

*Non cul. ad partem, and tender amends ad al.
partem.*

ET, &c. quando, &c. Et quoad fraction. Clausi pred. ac
etiam quoad conculcation. bladatum & herbe pred. pedi-
bus ambuland. in eisdem quatuor acr. terr. pred. de novo as-
signat. superius fieri supposit. dic. quod ipse in nullo est culpa-
bilis, &c. Et de hoc pon. se super patriam, & querens similiter.
Et quoad resid. transgr. pred. in eisdem quatuor acris terr.
de novo assign. superius fieri supposit. idem A. dic. quod pred.
B. actionem suam predictam habere non debet, quia dic. quod
resid. transgr. pred. in eisdem quatuor acr. terr. de novo as-
signat. superius fieri supposit. fuit fac. cum averiis predictis
per negligentiam, & contra voluntatem ejusdem A. Et
quod idem A. postea & ante inception. hujus actionis ipsius
B. scilicet, 16 die Maii, anno, &c. apud eandem Parochiam
de R. in dicto Com. Ebor. eidem B. obtulit xx s. legalis monet.
Angl. pro & in satisfaction. resid. transgr. pred. sicut præsertur
fact. qui quidem xx s. sufficien. emend. fuer. pro eodem resid.
transgr. pred. in eisdem quatuor acr. terr. cum pertinen. de
novo assignat. ut præsertur fac. Et quod pred. B. pred. xx s.
sicut præsertur oblat. de eodem A. recipere adtunc & ibidem
penitus reculavit; Et hoc parat. est verificare; unde, &c.

Replie.

ET. pred. B. quoad placit. pred. ipsius A. quoad dict. resid.
transgr. pred. in eisdem quatuor acris terr. cum pertinen.
de novo assignat. fact. dic. quod ipse per aliqua in eodem pla-
cito prællegat. ab actione sua pred. inde versus eum habend.
præcludi non debet, quia protestand. quod pred. resid. transgr.
pred.

pred. in eisdem quatuor acr. terr. cum pertin. de novo assign. non fuit fact. averiis pred. per negligentiam & contra voluntatem ejusdem A. protestando etiam quod pred. xx s. in satisfactione transgr. pred. non oblat. fuer. ante eundem diem in ception. sectæ ejusdem B. prout prefat. A. superius allegavit, pro placito idem B. dic. quod pred. xx s. oblat. fuer. per eund. A. eidem B. pro quadam transgr. per eundem A. cum averiis pred. eidem B. in quodam al. Clauſ. terr. cum pertin. vocat. le S. ipsius B. in Paroch. de R. pred. in Com. pred. fact. absq; hoc quod idem A. obtulit eidem B. pred. xx s. pro & in satisfactione pred. resid. transgr. pred. in eisdem quatuor acris terr. de novo assign. fact. prout idem A. superius allegavit; Et hoc parat. est verificare; unde quia idem A. pred. resid. transgr. pred. in eisdem quatuor acr. terr. cum pertinen. pred. de novo assign. fact. superius cognovit: idem B. pet. judicium, & damna sua occasione resid. transgr. pred. sibi adjudicari.

Rejoinder.

ET. pred. A. ut prius dic. quod ipse obtulit eidem B. pred. xx s. pro satisfaction. ejusdem resid. transgr. pred. in pred. quatuor acr. terr. cum pertinen. de novo assign. fact. prout ipse superius allegavit; Et de hoc pon. se super patriam; Et pred. B. similiter: Ideo, &c.

Abatement per misnomer.

ET. pred. A. per Simon Don Attorn. suum ven. & pet. Judic. de brevi de Justic. pred. quia dic. quod nomen baptism. ejusdem Agnet. in brevi pred. nominat. est *Anna* & non *Agnet.* prout pred. B. superius narravit; Et hoc parat. est verificare; unde pet. judicium de pred. brevi de Justic. Et quod pred. breve de Justic. quassetur.

Abatement pur variance enter brief & Couns.

ET. pred. A. per I. R. Attorn. suum ven. & pet. Judic. de brevi de Justic. pred. quia dic. quod ipse est eadem persona versus quem pred. B. protulit breve suum pred. per nomen B. D. alias E. *Yeoman*, & per idem nomen B. D. alias E. die impetrationis brevis de Justic. ipsius B. & semper postea hucusque cognit. & vocat. fuit & per idem nomen B. D. alias E. versus eundem A. in narratione sua pred. nunc declaravit; absq; hoc quod idem B. nominatur sive vocatur Johannes alias Henricus, vel per idem nomen B. D. alias E. ullo tempore cognit. vel vocat. Et hoc parat. est verificare; unde pet. judicium de brevi de Justic. pred. &c.

Innholder plead al. Trover que il detain un cheval pour ses Victuals.

ET. pred. A. per A. B. Attorn. suum, &c. actio non quia dic. quod ipse eodem tempore quo pred. Equus in narratione pred. specificat. ad man. suas venire supponit. & per duos annos tunc ult. elaps. & semper postea fuit; & adhuc existit communis Hospitator, & tenet quoddam commune Hospitium voc. le George in Paroch. & Vill. de Harwood, in dicto Com. Ebor. ac infra, &c. & quod quidam C. D. xii die Augusti, anno pred. apud Paroch. & Vill. de H. pred. ad commune Hospitium ipsius A. ven. secum ducend. equum pred. in Hospitium pred. quem quidem equum pred. C. D. eodem xii die Augusti supradict. usq; xxiv diem Junii, anno, &c. supradict. in Hospitio ejusdem A. ad pastum reliquit, & quod pred. pastus ipsius A. depast. & consumpt. infra idem Hospitium per eundem equum inter pred. xii diem Augusti anno, &c. & pred. xxiv diem Junii anno supradicto, valebat octo libr. & decem solid. legalis monetæ Angliæ: Et quod nemo infra tempus illud solvit prefat. A. pro pastu pred. neq; pro eodem cum pred. A. composuit sive agreeavit; unde quidam L. M. N. O. ac al. legales & probi honesti vicin. ipsius A. & inhabitant. & remanent. infra dictam Paroch. de H. in Com. pred. ad requisitionem ipsius A. postea scilicet xxiv die Junii, supradict. apud Vill. & Paroch. de H. rationabilit. appreciarunt Equum pred. ad sex libr. & decem solid. & nil amplius; unde idem A. postea, scilicet, pred. xxiv die Junii, anno pred. apud Paroch. de H. pred. eundem Equum in manibus suis retinuit erga satisfactionem ejusdem A. pro pastu pred. & equum ill. ad usum A. propr. ad tunc & ibidem convertit & disposuit prout ei bene licuit; Et hoc parat. est verificare; unde pet. judic. si querens actionem, &c.

This may be also given in Evidence.

Placitum licentie.

ET. pred. A. quoad transgr. pred. quoad fraction. Clausi pred. & depast. &c. cum averiis, &c. & conculcation. &c. pedibus suis superius fieri supposit. dic. quod idem B. ante tempus illud quo, &c. scilicet, xx die Maii, anno, &c. apud Skipton pred. in Com. pred. & infra Jurisdictionem hujus Curie licentiam dedit eidem A. in tenementa pred. cum pertin. (de novo assign.) intrare, & imponere averia pred. & herbam in tenementa pred. cum pertin. (de novo assign.) ad tunc & ibidem crescen. depascend. virtute cujus licen. idem defend,

send. eodem tempore quo, &c. in tenementa pred. cum pertin. in quibus, &c. intravit, & averia sua pred. ad herbam depascend. ibidem imposuit, & eadem averia eodem tempore quo, &c. virtute licen. pred. herbam pred. in tenementa pred. cum pertin. depast. fuer. conculcaver. & consumpser. quæ quidem fractio clausi pred. & depast. conculcat. & consumptio herbæ pred. cum averiis pred. in tenementis pred. cum pertin. superius de novo assign. & conculcatio & consumptio al. herbæ pred. in eisdem tenementis pedibus ambulando virtute licen. pred. & pro causa pred. in forma sicut presertur fact. est eadem fractio clausi, &c. Et hoc, &c.

The Plaintiff replies, De injuria propria, and traverseth the Liberty; and the Defendant justifies he gave the Liberty, and Issues thereupon.

Avowry pro redditu.

ET. pred. A. B. per S. D. Attorn. suum ven. & defend. viñt & injuriam quando, &c. & bene advoc. caption. averior. pred. in pred. loco quo, &c. & juste, &c. quia dic. quod pred. locus in quo, &c. est & tempore captionis pred. & ante fuit quatuor. acr. terr. in M. pred. & dic. quod diu ante tempus captionis pred. superius fieri supposit. ac eodem tempore pred. A. B. fuit seifit. in Dominico suo ut de Feodo, de un. mess. un. gardin. & quatuor acris terr. & un. acr. bosc. cum pertin. in M. pred. de quibus idem locus in quo, &c. est & pred. tempore quo, &c. fuit parcell. & sic inde existen. seifit. eadem Messuag. Gardin. terr. & Bosc. cum pertin. diu ante temp. caption. pred. scilicet, ad Festum annuntiationis beatæ Mariæ virginis, anno, &c. apud M. pred. eidem C. D. dimisit habend. sibi a Festo pred. tamdiu eidem A. B. placuerit, redd. inde annuatim eidem A. B. (tamdiu pefat. C. D. haberet & occuparet pred. Messuag. Gardin. terr. & Bosc.) xxx s. ad Festum Sancti Mich. Archang. & Annuntiation. beatæ Mariæ virginis, per equal. portion. annuatim solvend. virtute cujus dimissionis pred. C. D. pred. Messuag. Gardin. terr. & Bosc. cum pertin. a pred. Festo annuntiationis, &c. usq; ad Festum annuntiationis, &c. proxim. ante tempus caption. pred. habebat & occupaverat; Et quia xxx s. de redditu pred. virtute ejusdem dimissionis per tempus pred. eidem A. B. tempore captionis pred. in arrerag. remanser. & adhuc remanent insolut. idem A. B. bene advoc. caption. averiorum pred. in dicto loco in quo &c. & juste, &c. nomine districtionis, &c. Et hoc parat. est verificare; unde pet. judicium, & return. averior. pred. sibi adjudicari, &c.

Bar in Trespass, that the Goods were delivered as a Pawn.

ET. pred. A. B. per, &c. ven. & defend. vim & injuriam quando, &c. Et quoad fraction. Clausi. &c. in nullo est inde culpabilis, & de hoc, &c. & quoad resid. transgr. pred. superius fieri supposit. idem A. B. dic. quod pred. C. D. actionem suam pred. habere non debet, &c. quia dic. quod idem C. D. diu ante pred. tempus quo, &c. eidem A. B. indebitat. fuit in xxii s. pro diversis denar. summis per eundem C. D. de pred. A. B. mutuatur. & postea, & diu ante tempus pred. quo, &c. idem C. D. apud, &c. eidem A. B. bona & catalla pred. deliberavit tanquam pignus pro pred. xxii s. tenend. eidem A. B. ut pignus quousq; pred. C. D. prefat. A. B. eisdem xxii s. solvisset. Et idem A. B. in facto dic. quod prefat. C. D. pred. xxii s. eidem A. B. nondum solvit, quod est eadem transgr. & captio & asportatio bonor. & catall. pred. unde pred. C. D. superius modo queritur; Et hoc, &c. Unde, &c.

Replie.

ET. pred. C. D. dic. quod ipse per aliqua præallegat. ab actione sua pred. habend. præcludi non debet, quia dic. quod prefat. A. B. de injuria sua propria, & absq; aliqua tali causa per ipsum eundem A. B. præallegat. die & anno pred. bona & catalla pred. apud R. in dicto Com. Ebor. invent. cepit & asportavit, prout pred. C. D. in narratione sua pred. superius supposit. Et hoc pet. quod inquiretur per patriam; Et pred. A. B. similiter. Ideo, &c.

Concord plead.

ET. pred. A. B. in propria persona sua ven. & defendit vim & injuriam, quando, &c. Et quoad transgr. pred. superius fieri supposit. idem A. B. dic. quod pred. C. D. actionem suam pred. versus eum habere non debet, quia dic. quod postquam transgr. pred. fieri supposit. fact. fuit scilicet octavo die Julii, anno, &c. pred. apud S. pred. in Com. pred. & infra Jurisdiction. istius Curie iidem A. B. & C. D. per mediation. E. F. & G. H. amicorum & familiar. suorum, inter eos amicabiliter interveniend. talis habebatur concordia inter eos, viz. quod idem A. B. v. s. legalis monetæ Angliæ eidem C. D. pro emend. & satisfaction. ejusdem transgr. solveret; quos quidem v. s. &c. idem A. B. prefat. C. D. adiune & ibidem

dem solvit, secundum vim, formam & effectum concord, pred:
Et hoc, &c. Unde pet. judic. &c.

Replie.

ET pred. C. D. dic quod ipse per aliqua præallegat. ab actione sua pred. habend. præcludi non debet, quia dic. quod nunquam habeatur aliqua talis concord. sive agreement. Inter ipsos C. D. & A. B. qualis pred. A. B. superius placitando allegavit; Et hoc pet. quod inquiratur per patriam; Et pred. A. B. similiter, &c.

Avowry pour Heriot.

ET pred. C. D. per, &c. ven. & defend. injur. quando, &c. Et bene advoc. caption. ejusdem bovis in dicto loco quo, &c. & iuste, quia dic. quod durante caption. ejusdem bovis superius supposit. quidam I. G. de un. messuag. cum pertin. in W. pred. fuit. seisit. in Dominico suo ut de Feod. & sic inde seisit. idem I. G. illud tenuit de pred. C. D. per fidelit. & redd. xii d. eidem C. D. annuatim ad Festum Annunciat. beatæ Mariæ virginis, &c. & Sancti Mich. Archang. per equal. portion. solvend. ac etiam per servic. quod unusquisq; tenent. ejusdem messuag. cum pertin. de eodem in Dominico suo ut de Feodo seisit. vel in usu a tempore cujus contrarii memoria hom. non existit debuit & consuet. fuisse eidem C. D. & hæred. suis optim. animal ejusdem tenentis dict. messuag. cum pertin. sic decedend. inde seisit. in Dominico suo ut de Feodo vel in usu, per nomen Heriotti reddere; de quibus servic. pred. C. D. fuit seisit. per man. ipsius I. G. tanquam per man. veri tenentis ejus, videlicet, de pred. fidelitat. ut de Feodo & jure, & de pred. redd. in Dominico ut de Feodo: & postea idem I. G. de pred. messuag. cum pertinen. seisit. in Dominico suo ut de Feodo obiit, & quia pred. Bos fuit Bos propr. ejusdem I. G. tempore mortis sue, idem C. D. tanquam optimum animal quod fuit ipsius I. G. tempore mortis sue per nomen Heriot. cepit & iuste, &c.

Bar for Default of the Plaintiff's Fences.

ET pred. A. & B. per I. R. Attorn. suum ven. & defend. injur. quando, &c. Et quoad fraction. Clausi pred. & depast. conculation. & consumption. herb. pred. idem A. & B. dicunt quod pred. D. action. suam pred. versus eos habere non debet, quia dicunt quod idem A. & B. tempore transgr. pred. fieri supposit. fuer. & adhuc existunt seisit. de quodam Clauso pastur. prox. adjacen. eidem Clauso ipsius D. in quo, &c. in S. pred.

pred. in Dominico suo ut de Feodo, inter quæ quidem Clausa quædam est sepes sepeperan. quemque ab al. pred. Clausis, quam quidem sepem pred. D. & omnes illi quorum statum ipse idem D. tunc habuit in Clauso pred. a tempore cujus contrarii memoria homin. non existit, facere, reparare & manutenere usi fuer. & dicunt quod sepes illa pro defectu reparation. & mantention. ejusdem fuit tempore transgr. pred. fieri supposit. rupt. & prostrat. & quod averia pred. A. & B. in eorum Clausis pred. ad depastend. posit. in pred. Claus. ipsius D. per rupt. & decass. ejusdem sepis, contra voluntat. eorundem A. & B. intraver. & herbam pred. depast. fuer. conculcaver. & consumpser. & idem A. & B. averia sua pred. recenter prosequen. in eund. Claus. ipsius D. per rupt. & decass. pred. ad averia sua in eundem Claus. ipsor. A. & B. refugand. intraver. ac in Clausis illis celeriter fugaver. prout eis bene licuit, quod est eadem transgr. & fractio Clausi, & eadem depast. conculcatio & consumptio herbe pred. unde pred. D. superius versus eos queritur: Et hoc parat. sunt verificare, &c.

Replication.

ET. pred. D. dicit, quod ipse per aliqua preallegata ab actione sua pred. versus eosdem A. & B. habend. precludi non debet, quia dicit quod pred. A. & B. de injuria sua propria Clausum pred. vocat. B. in quo, &c. freger. & herbam pred. cum averiis pred. depast. fuer. conculcaver. & consumpser. prout idem D. superius versus eos inde queritur abque hoc quod ipse idem D. & omnes illi quorum statum ipse pred. D. tunc habuit in Clauso predicto a tempore cujus contrarii memoria hominum non existit sepem pred. facere reparare & manutenere usi fuer. prout pred. A. & B. superius placitando allegaver. Et hoc parat. est verificare unde petit Judicium & dampna sua occasione transgr. pred. sibi adjudicari, &c.

Rejoinder.

ET. pred. A. & B. ut prius dicunt quod pred. D. & omnes illi quorum statum ipse pred. D. tunc habuit in Clauso pred. a tempore cujus contrarii memoria hominum non existit sepem pred. facere reparare & manutenere usi fuerunt prout ipsi superius placitando allegaverunt. Et de hoc ponunt se super patriam. Et pred. D. similiter, &c.

Avowry for Damage Feasant.

ET pred. A. per, &c. ven. & defend. injur. quando, &c. & bene advoc. caption. vaccarum pred. in dicto loco quo, &c. & juste, &c. quia dic. quod seiscitus est, ac tempore captionis pred. seiscitus fuit de un. messuag. & xii acr. terr. cum pertin. in dicta Villa de S. de quibus locus in quo pred. vacc. capt. fuer. est parcell. in Dominico suo ut de Feodo; Et quia ipse tempore caption. pred. vaccas pred. in loco pred. quo, &c. damn. faciend. invenit, pred. A. easdem vaccas in sol. & libero tenemento suo damnum ibidem sic faciend. cepit prout ei bene sicut; & hoc parat. est verificare, unde pet. judicium, & re-torn. averiorum pred. &c.

Misnomer in the Writ of Justicies.

ET super hoc ven. *Alvered Pease* per W. O. Attorn. suum & dic. quod ipse virtute ejusdem brevis de Justic. existen. sum. per nomen *Abraham Pease*, nec est neq; intelligi potest esse eandem personam versus quam pred. B. protulit breve suum per nomen *Abraham Pease*, quia dic. ipse nominatur & vocatur *Alvered Pease*, & per idem nomen & cognomen a tempore nativitatis sue semper cognit. & vocat. absq; hoc quod nominatur sive vocatur *Abraham Pease*, aut per idem nomen & cognomen inquam cognit. vel vocat. prout per breve illud supponit. Et hoc pred. *Alvered* parat. est verificare, unde petit judicium pred. brev. & quod idem breve quassietur, &c.

Non cepit.

ET pred. B. per S. H. Attorn. suum ven. & defend. vim & injuriam quando, &c. Et dic. quod ipse non cepit averia pred. prout pred. A. superius versus eum querit. Et de hoc pon. se super patriam, & pred. A. similiter, &c.

Bar in repleg. per Property.

ET pred. B. per S. T. Attorn. suum ven. & defend. vim & injuriam quando, &c. Et dic. quod propriet. averiorum pred. tempore supposit. eorum captionis in pred. B. fuit, & non in prefat. A. Et hoc parat. est verificare, unde pet. judicium, &c.

Demurrer ad narr.

ET pred. B. per C. D. Attorn. suum ven. & defend. vim & injuriam quando, &c. Et dic. quod narratio ipsius P. & mater. in ea content. minus sufficien. in lege existunt pro pred. P. actionem suam pred. habend. versus eum manutenere : Et quod eidem narrationi modo & forma pred. fact. idem B. necesse non habet, neque per legem terræ tenetur respondere : Et pro causis moræ in lege in hac parte, pred. B. secundum formam Statuti in hac parte provis. ostendit Cur. hic causas sequent. videlicet, quod narratio in se continet duplicem & insufficien. materiam & forma caret. Et hoc parat. est verificare ; unde pro defectu narrationis sufficien. in hac parte idem B. pet. judic. Et quod pred. P. ab actione sua versus eum habend. præcludatur, &c.

Joinder in Demurrer.

ET pred. P. dic. quod ipse superius narrand. in narratione sua pred. allegavit materiam in lege sufficien. actionem suam pred. habend. versus eund. B. manutenere : Et hoc parat. est verificare : quam materiam pred. B. non dedicit, nec ei aliquid respondit, sed omnino recusat verificationem illam admittere ; unde pet. judicium, & debit. suum pred. una cum damnis occasione detentionis debiti illius sibi adjudicari.

Si in transgr. sic.

PEt. judic. & damna sua ratione ejusd. transgr. vel transgr. & insult. vel transgr. insult. & imprisonment. (*as the Case* *is*) sibi adjudicari, &c.

In Case.

PEt. judicium & damna sua occasione superius specificat. sibi adjudicari, &c.

Et pred. A. per I. S. Attorn. suum ven. Et dicit quod pred. T. ad breve & narration. sua pred. respondere non debet, quia dicit quod pred. T. primo die Maii, anno regni dicti Domini Regis nunc nono per nomen S. T. nuper de Castr. Ebor. Teo-

Outlawry
pleaded in
Abatement.

man, utlagat. fuit & adhuc existit ad sectam cujusdam A. B. de placito transgr. super casum, unde idem T. conviſt. est prout per Record. utlagar. pred. in Cur. hic scilicet apud Westm. in Com. Midd. residen. liquet manifeste, & hoc parat. est verificare per Record. ill. unde petit judicium si pred. T. ad breve & narration. sua pred. respondere debeat, &c.

Payment
to a Bond
pleaded.

Et pred. I. per A. B. Attorn. suum venit & defendit vim & injuriam quando, &c. Et petit auditum scripti pred. Et ei legitur, &c. petit etiam auditum Conditionis ejusdem scripti. Et ei legitur in hæc verba, scilicet, *The Condition*, &c. (*reciting the Condition*) Quibus lectis & auditis idem I. dicit quod pred. T. actionem suam pred. versus eum habere non debet, quia dicit quod ipse idem I. solvit prefat. T. pred. 10 l. super pred. festum, &c. in conditione pred. superius specificat. quas ipse & prefat. C. D. vel eorum alter eidem T. ad in vel super eundem diem solvisse debuer. vel debuit secundum formam & effectum Conditionis illius videlicet apud domum mansional. pred. T. scituat. in B. pred. in Com. pred. Et hoc parat. est verificare, unde petit Judicium, &c.

Note, That this was the old Form, but now since per 4 A. Payment may be pleaded, though not strictly made; it must be pleaded accordingly, or it will be an immaterial Issue.

Et pred. T. dicit, quod ipse per aliqua præallegat. ab actione sua pred. habend. precludi non debet, quia dicit quod pred. I. non solvit eidem T. super pred. festum, &c. in conditione pred. superius specificat. pred. 10 l. quas ipse & præfat. C. D. vel eorum alter, &c.

Plea no
Award.

Et pred. A. per I. H. Attorn. suum venit & defendit vim & injuriam quando, &c. Et petit auditum scripti pred. Et ei legitur, &c. petit etiam auditum conditionis ejusdem scripti, & ei legitur in hæc verba, *The Condition*, &c. Quibus lectis & auditis eadem A. dicit quod pred. E. actionem suam pred. versus eam habere non debet, quia dic. quod pred. I. B. arbitrator in conditione pred. superius nominat. non fecit aliquod arbitrium inter pred. E. & pred. R. H. in scripto obligator. pred. & in conditione ejusdem nominat. secundum formam & effectum conditionis illius. Et hoc parat. est, &c.

Replica-
tion and
the Breach.

Et pred. E. dicit quod ipse per aliqua, &c. precludi non debet, quia dicit quod pred. I. B. post confessionem scripti pred. & ante pred. sextum diem Junii in Conditione scripti pred.

pred. mentionat. scilicet primo die Junii, anno regni dict. Domini Regis nunc duodecimo supradicto apud Civitat. E. pred. accepto super se onere arbitrandi ordinandi & adjudicandi inter pred. E. & prefat. R. H. in vita sua de & super premiffis in pred. Conditione scripti pred. superius specificat, adtunc & ibidem arbitravit ordinavit & adjudicavit inter ipsum E. & pred. R. H. in vita ipsius R. de & super eisdem premiffis in forma sequen. (videlicet) quod pred. R. H. solveret seu securaret anglice *secure* solvi eidem E. vel assignatis suis summam 10 l. legalis monetæ Angliæ super vel ante primum diem Julii tunc prox. sequen. quodque super solutionem pred. 10 l. vel super securantiam, anglice *securing*, solutionis earundem 10 l. eidem E. per pred. R. H. ut prefertur fiend. iidem E. & R. sigillarent alter eorum alteri general. relaxation. &c. prout per arbitrium illud plenius apparet, de quo quidem Arbitrio sic ut prefertur fact. prefatus R. H. in vita sua scilicet eodem primo die Junii, anno duodecimo supradicto apud Civitatem E. pred. habuit notitiam. Et idem E. ulterius dicit quod pred. R. H. non solvit nec solvi securavit eidem E. super vel ante pred. primum diem Julii, anno duodecimo supradicto, seu ad aliquod tempus postea hucusque pred. summam 10 l. quas ei super vel ante eundem diem solvisse vel solvi securasse debuit secundum formam & effectum Arbitrii pred. Et hoc parat. est verificare unde petit judicium & debitum suum una cum damnis suis occasione detentionis debiti illius sibi adjudicari, &c.

Et pred. A. dicit quod pred. Arbitrator nullum tale fecit arbitrium ordinationem neque judicium de & super premiffis ante predictum sextum diem Junii in Conditione scripti mentionat. in forma qua pred. E. superius allegavit. Et de hoc ponit se super patriam. Et predictus E. similiter.

Rejoinder
and Issue.

Et pred. I. per A. B. Attorn, &c. quando, &c. Et quoad totam transgr. pred. præter conculcationem & consumptionem herbarum & graminis pred. pedibus ambulando dicit quod ipse in nullo est inde culpabilis. Et de hoc ponit se super patriam. Et pred. R. similiter. Et quoad conculcationem & consumptionem herbarum & graminis pred. pedibus ambulando idem I. dicit quod pred. R. actionem suam pred. inde versus eum habere non debet quia dic. quod ipse pred. I. diu ante pred. tempus quo supponitur transgr. pred. fieri possessionat. fuisset & adhuc possessionat. existit de & in uno Clauso vocat. W. cum pertin. quodque idem I. & omnes alii possessores & occupatores Claudi illius vocat. W. cum pertin. pro tempore existen. a tempore cuius contrarii memoria hominum non existit habere usi fuerunt & consueverunt pro se & servientibus suis quoddam viam pedestrem ducen. a villa de T. pred. in per & trans quoddam

Justification
in
Trespas
by Claim
of a Way.

Clausum vocat. S. apud T. pred. ac infra Jurisdictionem pred. & abinde in per & trans quoddam al. Clausum vocat. C. apud T. pred. ac infra, &c. & abinde in per & trans pred. Clausum vocat. R. in quo, &c. usque ad & in pred. Clausum vocat. W. Et sic retrorsum a pred. Clauso vocat. W. in per & trans pred. Clausum vocat. R. & abinde in per & trans pred. Clausum vocat. C. & abinde in per & trans pred. Clausum vocat. S. per eandem viam usque ad pred. villam de T. ad eund. & redeund. in via pred. omni tempore anni ad libitum suum tanquam ad pred. Clausum vocat. W. cum pertin. spectan. & pertin. per quod pred. I. pred. tempore quo, &c. a pred. villa de T. pred. in per & trans pred. Clausum vocat. S. & abinde in per & trans pred. al. Clausum vocat. C. & abinde in per & trans pred. Clausum vocat. R. usque ad & in pred. Clausum vocat. W. in per & trans pred. Clausum vocat. R. & abinde in per & trans pred. Clausum vocat. C. & abinde in per & trans pred. Clausum vocat. S. per eandem viam ad pred. villam de T. predict. ivit & rediit prout ei bene licuit. Et idem I. in eundo & redeundo ut prefertur aliquantulum herbæ & graminis in eadem via in pred. Clauso vocat. R. in quo, &c. tunc crescen. pedibus ambulando conculcavit & consumpsit utendo via sua pred. & tam modicum dampnum quam potuit ibidem faciend. quæ sunt eadem transgr. quoad conculcationem & consumptionem herbæ pred. unde pred. C. se modo inde queritur. Et hoc paratus est verificare unde petit iudicium si pred. R. actionem suam pred. inde versus eum habere debeat, &c.

*De injuria
sua propria.*

*And have
Use of
the Way.*

Et pred. R. quoad placitum predictum predicti I. quoad conculcationem & consumptionem herbæ pred. pedibus ambulando dicit quod ipse per aliqua in eodem placito præallegata ab actione sua pred. inde versus eum habend. precludi non debet quia dicit quod pred. I. de injuria sua propria herbam pred. in Clauso pred. nuper crescen. pedibus ambulando conculcavit & consumpsit prout idem R. superius versus eum inde queritur absq; hoc quod pred. I. & omnes alii possessores & occupatores Clausi pred. vocat. W. cum pertin. pro tempore existen. a tempore cujus contrarii memoria hominum non existit habere usi fuer. & consuever. pro se & servien. suis pred. viam pedestrem ducen. a villa de T. pred. in per & trans pred. Clausum vocat. S. & abinde in per & trans pred. alium Clausum vocat. C. & abinde in per & trans pred. Clausum vocat. R. in quo, &c. usque ad & in pred. Clausum vocat. W. & sic retrorsum a pred. Clauso vocat. W. in per & trans pred. Clausum vocat. R. & abinde in per & trans pred. Clausum vocat. C. & abinde in per & trans pred. Clausum vocat. S. per eandem viam usq; ad pred. villam de T. ad eund. & redeund. in via pred. omni tempore anni ad libitum suum prout pred. I. superius

superius placitando allegavit. Et hoc paratus est verificare, unde ex quo pred. I. transgr. ill. pedibus ambulando superius cogn. idem R. petit iudicium & dampna sua occasione inde sibi adjudicari, &c.

Et predictus I. ut prius dicit quod ipse idem I. & omnes alii possessores & occupatores Clausi predicti vocat. W. cum pertin. pro tempore existen. a tempore cuius contrarii memoria hominum non existit habere nisi fuer. & consuever. pro se & servientibus suis pred. viam pedestrem ducen. a villa de T. pred. in per & trans predictum Clausum vocat S. & abinde, &c. (ut supra usque) ad eund. & redeund. in via pred. omni tempore anni ad libitum suum prout ipse superius placitando allegavit. Et de hoc ponit se super patriam, &c.

Rejoinder
in Maintenance
of the Plea,
& exitus
inde.

Et predictus A. per E. F. venit & defendit vim & injuriam quando, &c. Et dicit quod pred. B. ad narrationem suam pred. respondere non debet, quia dicit, quod pred. B. alias scilicet in Curia libertatis beatæ Mariæ Ebor. tent. apud Palatium Domini Regis juxta muros Civit. Ebor. (die & anno) implacitavit pred. A. de placito transgr. super Casum ad dampnum ipsius B. 4 l. 19 s. in quo quidem placito super Compartmentia ipsius A. in eadem Curia Libertatis beatæ Mariæ Ebor. predict. per C. D. Attorn. suum, inde tunc habit. pred. B. in Curia illa narrando versus eundem A. tunc dixit quod cum pred. A. (die & anno) &c. (totam narrationem recitando) prout per narrationem ipsius B. versus eundem A. in Curia illa de Recordo affilat. residen. plenius liquet & apparet. Et idem A. ulterius dicit quod pred. 35 s. in predicta narratione recitat. mentionat. & pred. 35 s. per predictum B. de prefato A. modo petit. sunt unum & idem debitum & non alia neque diversa debita quodque predict. placit. in pred. Cur. beatæ Mariæ Ebor. adhuc pendet indeterminat. & minime discontinuat. Et hoc parat. est verificare unde petit iudicium si pred. B. penden. predicto placito in pred. Curia Libertatis beatæ Mariæ indeterminat. pro eodem debito ad narrationem suam pred. hic in Curia affilat. respondere debeat, &c.

Plea in
Abatement, *autre*
Action
pending.

Et predictus A. per E. B. Attorn. suum venit & defendit vim & injuriam quando, &c. Et dicit quod predictus G. actionem suam predictam versus eum habere non debet quia dicit quod predictus G. meruit habere de prefato A. pro dicto labore ipsius G. in narratione predicta superius mentionat. quindecim solidos legalis monetæ Angliæ, & non amplius quos quidem quindecim solidos idem A. postea & ante diem impetrationis querelæ predicti G. (scil. die & anno) apud B. predict.

Plea of
Tender.

diā. ac infra Jurisdictionem predictam obtulit solvere eidem G. & ipse quindecim solidos illos de eodem A. recipere adtunc & ibidem recusavit quodque idem A. semper postea hucusque parat. fuit & adhuc parat. est ad solvend. prefato G. predictos quindecim solidos & illos hic in Curia profert ad eosdem 15 s. eidem G. solvend. Absque hoc quod predictus G. meruit habere de predict. A. pro labore predict. plus quam quindecim solidos prout idem G. per narrationem suam predictam superius supponit. Et hoc parat. est verificare unde petit iudicium si predictus G. actionem suam predictam versus eum habere debeat. &c.

Quare, Whether this Plea be a good one.

Q F

Judicial Power.

Fitz. N. B.
8. d. & 82.
Term. del
ley, tit.
visc. 44.
E. 3. F.
Bar. 202.
5 H. 7. 6.

1. And first of his judicial Power; and as he is a Preserver of the Peace, he may (*ex officio*) upon Request, command and cause another to find Sureties of the Peace, and may take the same Sureties by Recognizance; for all Obligations that he takes to that End, are as Recognizances in Law.

And if he sees one Man assault another, or if an Assault be made upon himself, he may compel them to find Sureties of the Peace, and may set them in the Stocks until such Time as they do find them. See 5 H. 7. 6.

3 H. 7. 1.

Stat. 3 Jac.
6. 4.

Br. Fines
37.

Offic. Co-
ron. 3 E. 1.

Suspected Persons.

Armed Persons.
 2 E. 3. c. 3.
Crom. 203.

He may beat such as resist him, and may set them in the Stocks. 2 E. 4. f. 6. 21 H. 7. 39. *Br. Tresp.* 218, &c. 296.

To enquire of Waite, or to execute a Writ of Redisseisin.

He may commit a Disseisor to Prison, &c. Co. 6. f. 12. *Dalton* Office of Sheriffs, fol. 18.

He may take (of the County where he is Sheriff) any Number that he shall think convenient (300 if Necessity require it) to pursue, apprehend, arrest and imprison Traitors, Murderers, Robbers, Popish Recusants, and all Felons; to suppress Rebellions, Insurrections, or riotous Assemblies, or such as do break, or go about to break or disturb his Majesty's Peace: and every Man (required) as well Dukes, Earls, Barons, as all other his Majesty's Subjects within the same County, ought to aid and assist him; and such as do refuse, may be fined to the King; and may attach all Persons making such Default, to appear and answer before the Justices of Assize.

He may arrest all Persons by him suspected, or of evil Repute, that shall walk by Night or Day, committing them to the Gaol, to remain there until they shall be delivered by the Justices of Assize. 5 E. 3. cap. 14. *Cromp.* 103.

He may arrest all such Persons as go or ride offensively armed, and may commit them to Prison, there to remain during the King's Pleasure, unless they be delivered by the Justices before whom they shall be convicted; he may take their Armour to his Majesty's Use, and prize it by the Oaths of those that are present.

If a Party after he is arrested make Resistance, or shall make an Assault upon the Officer, as the Sheriff's Bailiff, &c. the Bailiff may justify the beating of such Resister, and such as disturb him in the Execution of his Precept, and may imprison them in the Stocks. 2 E. 4. fol. 6. 21 H. 7. 39. See *Br. Trespass* 18, and 296. And if the Party arrested and resisting be slain, it is justifiable. *Fitz. Coron.* 261. *Dozor and Student* 133. 6. *Cromp.* 24. a. 40. b. *See quare.*

By 11 H. 4. 7 A. 4. fol. 4. *Br. Offic.* fol. 4. 9. 34. 37. and 42. the Sheriff in a Writ to enquire of Waite, and a Writ of Redisseisin, he is both Judge, and the Officer of Record, and cannot delegate his judicial Power to any Bailiff of Franchise, but must enter the Liberty and execute it himself, otherwise it is Error. And if upon the Writ of Redisseisin, the Sheriff by Inquisition find the Disseisor to be disseised again, he may presently take such Disseisor and commit him to Prison, there to remain during his Majesty's Pleasure. See Co. 6. fol. 121. And in the Writ to enquire of Waite, and in the Writ of Redisseisin,

Redisseisin, whereby he is made Judge of the Cause, he must execute the same in proper Person, and not by his Under-Sheriff, or other Deputy whatever. Stat. Mert. 3. 39 H. 6. 42. 29 Aff. pl. 42.

Let us now descend to his Ministerial Power or Authority, which is dissected into two Parts, viz. as he is *Custos vice Justitiæ*, & *Custos vite Legis*. His Ministerial Power.

2. *Custos vite Justitiæ*. For all Processes are delivered to him to be executed. *Custos vite Justitiæ*.

And first to demonstrate his Initiation into his Ministerial Part of his Office, viz.

The new Sheriff being elected and sworn, at or before the County next succeeding his Election, he is to deliver a Writ of Discharge to the old Sheriff, who thereupon is to set over all his Prisoners that are then in the Gaol severally by their Names, together with all his Writs, precisely by View and Indenture made betwixt the two Sheriffs, wherein must be comprehended, and expressly specified, all the Actions which the preceding Sheriff hath against every Prisoner; and till Delivery of the Prisoners to the new Sheriff, they remain still in the Custody of the old; as you may see in that learned Argument more at large in *Westbie's Case*, Co. 3. 72. Neither is the new Sheriff obliged to receive the Prisoners but at the Gaol only; and upon the Return and Delivery of the Writs contained in the Indenture, if they were executed by the old Sheriff, the new Sheriff must indorse them in this Manner. *Crom. 203. Co. 4-72. A. Co. 3. 73. Westbie's Case.*

I send you this Writ as it is indorsed, delivered to me by A. B. Esquire, late Sheriff, my next Predecessor, in his going forth from his Office. The Indorsement of such Writs as are turned over to the new Sheriff by the old Sheriff.

E. F. Esq, Sheriff.

Isud brev. sic Superius indorsat. & retorn. deliberat. fuit mihi per A. B. nuper Vic. Com. infra script. & prox. Predecessorem meum, in ejus exitu ab officio illo.

Yet the old Sheriff (by the Statute of 12 E. 4. c. 1. and 17 E. 4. 6.) till the Writ of Discharge be delivered to him, may execute his Office. *Stat. 12 E. 4. c. 1. & 17 E. 4. 6.*

If a Sheriff die, or be removed before the usual Time, no Process shall be delivered to the Coroner, but the Execution thereof shall stay until a new Sheriff be elected and sworn; But upon Suggestion, that the Sheriff is of Kin to either Party, Process shall go to the Coroner. Stat. 12 E. 4. cap. 1. 22 H. 6. 51. 13 E. 4. 8. 6.

The old Sheriff may a long Time after he is out of Place, turn over a Prisoner to the present Sheriff that was omitted in the Calendar. *Siderf. Rep.* 335.

The new Sheriff is to take Notice who are in Execution.

Co. 3. 72. b. Westbie's Case.

If the old Sheriff hath in his Custody divers Persons in Execution, and dieth, afterwards a new Sheriff is elected, it behoves the new Sheriff to take Notice at his Peril of all the Executions which are against any Person that he finds in the Gaol; and this is for Necessity-sake, for there is none to make Delivery of them, or to give him Notice who are in Execution, and who not. And it is no Detriment to the Sheriff if he keep them safe until he hath perfect Knowledge of all the Executions; for if he may with Impunity suffer such as are in Execution to escape, great Inconvenience would thereupon ensue. *Co. 3. 72. b. 1 Westbie's Case.*

He is to preserve the King's Right, &c. *21 H. 7. 7. a. Stamf.*

Perk. 5, 6.

He is to preserve the Rights of the King within his County, and to enquire what Lands are concealed from him, or withholden, and to seize to his Use the Profit of such Lands as come to him by Attainder, or Escheat; and likewise the Goods of any Felon, Fugitive, Outlaw, Egyptian, Goods received, and Goods confiscate, and Wreck of the Sea.

He ought to be vigilant that the Suits of his Majesty be done in his Majesty's Court, viz.

1. Suit-Real, or Royal.

2. Suit-Service.

Suit-Royal, what.

1. And to declare what Suit-Royal is, It is a Suit due to the Sheriff's Torn, or Leet; which is so termed because of their Allegiance.

Suit-Service, what.

2. Suit-Service is due also to the Sheriff's Torn or Leet, by reason of the Tenure of a Man's Land.

He must levy his Majesty's Debts, &c. *52 H. 3. c. 15. Fitz. 173. Br. Distr. 35. 32. 40. & 72. Stat. 51. H. 3. Issues. Dalt. Office of Sheriffs. 25. b. Amerciaments.*

He shall levy his Majesty's Debt by Distress, either in the Highway or common Street. *52 H. 3. cap 15. Fitz. 173.* And if he can find no Goods elsewhere, he may distrain in the Church. *Bro. Distress 35.* and may sell such Distress after fifteen Days. See *Brook Distress 32. 40. and 72. and Stat. 51. H. 3.*

He is accountable to his Majesty for all manner of Issues and Profits of the County; and by his Office (upon Process out of the Exchequer) he is to gather up, and to bring into the Exchequer such Issues and Profits, &c. And likewise such Issues lost and returned in Respect of Nonappearance of the Defendants, or of Jurors, shall be forfeited to his Majesty, and shall be levied by the Sheriff. See *Dalt. fol. 25. b.*

He is also accountable to the King for, and upon Process, &c. and is to gather up, and to bring into the King's Exchequer, all Amerciaments and Fines which shall be set or assessed (as a Penalty) upon the Heads of Offenders against the King, in any of his Courts; which is to be understood of Amerciaments

ments upon the Plaintiff or Demandant, or upon the Tenant or Defendant in Actions real or personal; as if the Plaintiff and Demandant be nonsuit, or if Judgment be given against the Tenant or Defendant, or upon the Plaintiff, *quia non est persecutus*, or *pro falso clamore*, &c. or upon the Mainpernors, because the Principal appears not, &c. In such case the Justices never assess any Amerciament; but by the Statute of *Magna Charta*, cap. 14. and *Westm.* 1. cap. 18. the Amerciament ought to be assessed *per pares*: And the Court in such Cases enters, *Ideo in misericordia*, general, without taxing or assessing any Sum in certain: And then the Clerk of the Warrants in the Common Place makes Estreats of these Amerciaments, and delivers them to the Clerk of the Assizes within every Circuit, to deliver unto the Coroners in every County to assess the Amerciament. *Dalt. fol. 27. a.*

Magna Charta,
14. *Westm.*
1. c. 18.

His Majesty shall have all Amerciaments, Fines, Issues, and all Forfeitures or Recognizances lost or forfeited, &c. before any of his Judges or Justices in any of their Courts or Sessions; but these must first be estreated into the Exchequer, and from thence Process must be awarded to the Sheriff to levy the same to the King's Use. 33 H. 8. c. 39.

Recogni-
zance,
Fines, A-
mercia-
ments, &c.
33 H. 8.
c. 39.

The Sheriff ought not to take or seize the Goods of any Man arrested, imprisoned, or indicted for Felony, or for Suspicion thereof, before the same Person be duly convicted or attainted of the same Felony, (*viz.* either by Trial, Confession, or Utlawry and Judgment thereupon given) or that the same Goods be otherwise lawfully forfeited, upon pain to forfeit the double Value of those Goods so taken to the Party grieved.

He is to
seize no
Goods of
Felon, &c.
till they be
lawfully
forfeited.

By the Statute 1 R. 3. c. 3. Yet lest the Goods should be disorderly wasted, or sold away, the Sheriff (before the Attainder of the Felon) may take Sureties that the Goods be not imbezilled, &c. and for Want of Sureties, the Sheriff, or other his Officers, may seize them, and deliver them to the Town, by them safely to be kept. *Brook*, Title *Forfeit*, 44. *Plow.* 68. But yet the Felon must have reasonable Maintenance for himself and his Family until he be convicted, and the Remainder shall be to his Majesty, &c.

1 R. 3. c. 3
But take
Sureties he
may, that
the Goods
shall not be
imbezil-
led, &c.
*Br. tit. for-
feit*, 44.
Plow. 68.

If the Felon flee, the Sheriff is to seize all his Goods and Chattels, as also the Profits of his Lands to his Majesty's Use. But yet by *Co.* 4. 109. *Plow.* 262. the Goods, &c. of a Fugitive are not forfeited until the flying for Felony be lawfully found upon Record, either before the Coroner upon an Indictment, *super visum corporis*, in Case of the Death of a Man, or by Verdict upon his Acquittal; for although he be found not guilty upon his Trial, yet shall he forfeit his Goods for

He that
flies for
Felony for-
seits his
Goods,
Chattels,
and the
Profits of
his Lands,
&c.

Co. 5. 109. *Plow.* 262. *Fitz. Forf.* 192, &c. *Coron.* 296. & 344.

his flying; *quia fatetur facinus, qui judicium fugit*; and the Law will admit no Proof against this Presumption: And albeit the Jury which tries him shall find him not guilty, and further, that he did not fly, yet the Goods are forfeited by Force of the finding of his flying before the Coroner; and the Sheriff presently after such flying found before the Coroner, is to seize the Goods, and the Profits of the Lands of such Offenders. See *Fitz. Forf.* 32. Yet he that shall fly for Felony shall not forfeit the Goods or Profits of his Lands which he had at the Time of the Felony or flying, but those only which he had at the Time of the Indictment or Acquittal. *Co.* 5. 109. *Fitz. Coron.* 296, and 344.

Felo de se.

The Sheriff is to seize to the Use of the King the Goods and Chattels of him that killeth himself, but he shall not forfeit his Lands; yet if an Infant, a Man *Non compos mentis*, or a Lunatick killeth himself, he forfeits nothing.

Outlaws
Goods for
Felony. *Co.*
5. 110. b.

If a Man be indicted for Felony, and absents himself so long as an Exigent is awarded against him, that shall be accounted as a Flying in Law, for which he shall forfeit all his Goods, although he shall be acquitted afterwards of the Felony; and the Sheriff may presently *ex officio* seize them to the King's Use. *Co.* 5. 110 b. *Staundf.* 184.

Must re-
ceive all
Writs, and
execute
them, &c.
2 E. 3. c. 6.
Crom. 203.

The Sheriff, or his Under-Sheriff, shall receive all Manner of Writs at all Times, and in any Place within the Shire, and shall make Warrants thereupon. 2 *Ed.* 3. cap. 5. *Cromp.* 203. and shall be by him or his Balliffs executed.

He may
command
his Bailiff
to execute
them either
by Word
or Precept,
&c. *Lamb.*
91. 21 H. 7.
23. a.

He may command his Under-Sheriff, Bailiff, or other known Officer to execute them, either by Word or Precept: But if his Mandate be to a Man (that is no known Officer) to execute any Writ or Warrant, he must either deliver the Writ itself, or a Precept in Writing in his own Name, and under the Seal of his Office, otherwise an Action of False Imprisonment will lie for the Arrest. *Lamb.* 91. 21 H. 7. 23. a. But if a Precept be made to a Bailiff, and to a Stranger or special Bailiff, (*conjunctim & divisim*) and is not executed by the Stranger only, it is good. *Lamb.* 91. and *Dalton*, Office of Sheriffs, 44.

He must
not dispute
the Autho-
rity of the
Judges,
&c. that
send Writs
to him, but
must exe-
cute them.
Co. 6. 54.

If a Writ issue out from the Judges, Justices, or the Court, he shall not stand capitulating or disputing their Authority, or the Validity of the Writ, but ought to execute it. *Co.* 6. 54. 9. 68. & 10. 70. *Dr and Student* 150. For he is obliged both by Oath and Office to execute all Process of Law; and if a *Capias* be delivered to him without an Original, he shall execute it, and is excusable in an Action of False Imprisonment; for he being the Officer and Minister of the Court, it is Reason's Adversary to punish him for executing the Mandates of the Court, according to the Maxim, *Co.* 13. 70. *Quicumque jussu ju-*

9. 68. & 10. 70. *Dr. & St.* 150.

disis aliquid fecerit, non videtur ex dolo vel malo fecisse, quia parere necesse est: He that acts any Thing by the Mandate of the Judge, seemeth that he acted not any Thing fraudulently or amiss, because he must needs obey: But if the Court dilate it self beyond its Jurisdiction, in that Case all the Proceedings are *coram non iudice*, and there an Action doth lie against the Sheriff without any Regard to the Precept or Process; for when he hath no Jurisdiction, he is no Judge, and there is no Necessity to obey them, no more than a meer Stranger; and to back it with the Authority of a Rule or Axiom; *Extra territorium jus dicenti non paretur impune*. He that obeyeth in prescribing Laws beyond his Jurisdiction, shall not escape unpunished. Co. *ibid.* fol. 57. a. & b.

Co. 10. 77.

A Bailiff need not shew his Precept when he cometh to execute it upon any Man; yet upon the Arrest he ought to declare the Contents of it. But if a Bailiff be specially deputed, or one that is not a known Officer, he must shew the Warrant to the Party. Co. 9. 69. 21 H. 7. 23. and 37. Yet the special Bailiff is not obliged to shew it without Demand. 8 E. 4. 14. 14 H. 7. 9. Co. *ibid.*

A Bailiff need not shew his Precept when he executes it; but a special Bailiff must shew the Warrant, &c. Co. 9. 69. 21 H. 7. 23. & 37.

If a Bailiff by Virtue of a Precept from the old Sheriff after his Discharge shall arrest a Man, this Arrest is tortious, and an Action of False Imprisonment lieth both against the Sheriff and the Officer. *Crompt. 205. b.*

An Arrest by an old Sheriff after his Discharge tortious.

The Maxim of Law is that *Dies Dominicus non est Dies Juridicus*, no judicial Act ought to be done on that Day. And by the Statute of 29 Car. 2. cap. 7. no Person or Persons upon the Lord's Day shall serve or execute, or cause to be served or executed any Writ, Process, Warrant, Order, Judgment or Decree (except in Cases of Treason, Felony, or Breach of the Peace) but that the Service of every such Writ, Process, Warrant, Order, Judgment or Decree shall be void to all Intents and Purposes whatsoever. And the Person or Persons so serving or executing the same shall be liable to the Suit of the Party grieved, and to answer Damages to him for doing thereof, as if he or they had done the same without any Writ, Process, Warrant, Order, Judgment or Decree.

Process not to be executed on the Sabbath-day.

In all Cases where the Process concerns the King, the Sheriff, or other Officer (upon Refusal after Demand to open the Door) may break open the Door of the House, or use other Means to get in to do Execution: But in case of a common Person, the Law doth not permit the Sheriff, &c. upon Request made, and Denial, to break into the House of the Defendant to execute any Process at the Suit of any Subject, for

He may break open a Door to execute a Process concerning his Majesty, but not in Case of a

common Person. Co. 1. 5. 92. b. in *Seymour's* Case.

the

the great Inconveniencies that might ensue thereupon; because if Men, as well in the Night as in the Day, should have their Houses (which *in re vera* are their Castles and Fortresses) broken open, upon Pretence thereof, it would incur great Mischief and Damage; for by Colour thereof, upon any feigned Suit, the House of any Man at any Time might be broken open, when the Defendant might be arrested elsewhere, and so Men should not be in Safety and Repose in their own Houses. And although the Sheriff be an Officer of great Authority and Confidence, yet it appears by daily Experience, That his Majesty's Writs are served and executed many times by Bailiffs, who are generally Persons of little or no Value or Credit; and therefore not to be trusted with the breaking open and ransacking of Houses upon every slight Occasion. See *Co. 11. 82. a. Lewis Bowle's Case.*

Co. 11. 82. a Lewis Bowle's Case.

If an Under-Sheriff or Bailiff upon private Process enters into a House, which by Craft he gets to be opened by a Boy, or any third Person, in order to arrest the Defendant then in the House, the Under-Sheriff or Bailiff in this Case is a Trespasser, and such Entry unlawful. *Hob. 62. See 5 Co. 92. b. and 2 Crom. 556.*

Proclamation to be made four Times a Year. *Stat. Winch. Statute against unlawful Games. 3 Custos vita legis.*

He ought (*in propria persona*) four Times a Year to proclaim the Statute of *Winchester* within every Hundred of his Bailiwick, and in all Fairs and Markets by his Bailiffs. *7 R. 2. cap. 6. 13. E. 1. cap. 1. 28. E. 1. c. 17.*

The Statute provided against unlawful Games, is likewise to be proclaimed four Times in the Year in every Market and Fair within the County. *33 H. 8. c. 9.*

We will now handle the other Ministerial Part of his Office; and that, as he is *Custos vite Legis*, which extends to his doing Execution (after a tedious and long-spun Suit) which is the very Life and Spirit of the Law. And this is divided into several Branches, or Kinds of Executions, *viz.*

Statute-Merchant.

Statute-Staple.

Recognizance.

Elegit.

Capias ad satisfaciendum.

Fieri Facias, &c.

Levari facias.

22 Aff. 47.

Of the last four Executions, two are by the Common Law, *viz.* 1. *Fieri facias.* 2. And *Levari facias*; and two by the Statute, *viz.* 1. *Elegit.* And 2. *Capias ad satisfaciendum.* *22 Affize 47.* And note, that Execution by the Statute doth not oust Execution by the Common Law, no more than the Execution by one Statute ousts the Execution by another.

And first of the *Statute-Merchant.*

Statute-Merchant.

IT is defined by *West, Part 1. Symb. L. 2. Sect. 151.* to be a Statute-Bond or Obligation of Record acknowledged before one of Merchant, the Clerks of the Statutes-Merchant, and Mayor and chief Warden of the City of London, York, &c. or before the Bailiffs of any Borough, or other sufficient Men for that Purpose appointed, sealed with the Seal of the Debtor or Recognizor, and of the King; which consists of two Parts: The greater is kept by the said Mayor or chief Warden, &c. and the lesser Part thereof by the said Clerks. The Form of which you may see in *Fleta, lib. 2. c. 64, &c.*

And if the Debt be not paid at the Day, the Proceedings upon it, to have the Fruits and Effects thereof, are not like to the Proceedings in other Cases or Suits upon Obligations, &c. to reduce them to Judgment; but as they are in their own Nature much like to the Nature of a Judgment, so is the Proceeding and Execution thereupon, much like to the Proceeding and Execution upon a Judgment: And therefore the Conusee may bring an Action of Debt upon a Statute, or he may as soon as the same is forfeited, have a present Execution of it after this Manner.

He must bring his Statute to the Mayor and Clerk, or other Officer before whom it was acknowledged; and there if they find the Record of it, and the Day to be past for the Payment of the Money, they are to apprehend and imprison the Body of the Conusor, if he be a Lay-person, and can be found within their Jurisdiction; and if he cannot be found there, they are to certify the Record into the Chancery; which also if they refuse to do, they may be compelled unto by a *Certiorari*. And if that Certificate be faulty, or Execution be not done upon it, by reason of the Death of the Conusor, or otherwise, the Conusee, or his Executor or Administrator, may have another Certificate; and thereupon he shall have a Writ of *Capias* out of the Chancery directed to the Sheriff of the County where the Conusor lives, to apprehend and imprison him (if he be not a Clergyman) and this is to be returned into the Common Pleas or King's Bench: And when the Conusor is taken, he shall have Time for a Quarter of a Year to make his Agreement with the Conusee, and to sell

Its Nature:

How to sue out an Execution upon a Statute-Merchant.

Certiorari.

Capias.

*Extendi
facias,
what.*

sell his Lands or Goods to satisfie the Conusee : And for that Purpose he may sell Lands or Goods, although he be in Prison, and his Sale is good and lawful : And if in that Time he do not satisfie the Conusee, or if upon the *Capias* the Sheriff return a *Non est inventus* ; then by a Writ (or by divers Writs, if the Lands or Goods lie in divers Counties) called an *Extendi facias*, all his Lands and Goods shall be delivered (by the Sheriff to the Creditors upon a reasonable Extent, to hold until the Debt be paid : And if the Jurors or Appraisers upon the *Extendi facias*, overvalue the Lands or Goods in Favour to the Debtor, the Conusee hath no Remedy, but by Motion in that Court where the Writ is returnable, at the Return-day, or at least the same Term wherein the Writ is returnable, to desire that the Appraisers may take the Lands or Goods at the Rate they have valued them, in the same Manner as the Conusee is to have them. But if the Conusee accept of the Lands and Goods from the Sheriff, or suffer the Term to pass wherein the Writ is returnable, he is too late, and hath no Remedy at all. And if the Appraisers do undervalue the Lands or Goods in Favour to the Debtee, it seems the Conusor hath no Remedy at all, for he may at any Time pay all or the Residue of the Debt and Damages unlevied, and have his Lands again if he please : Yet nevertheless the Body of the Debtor shall remain in Prison until the Debt be paid ; and if there be Suitors, they shall receive no Damage, so long as the Debt may be fully levied of the Goods of the Debtor.

All the Fee-simple Lands of the Conusor at the Time of the Stat. acknowledged, &c. shall be liable to the said Statute. *Stat. de Mercator.* 13 E. 1. 27. c. 9. 23 H. 8. Co. 3. 12. Copyhold Lands not liable; nor Lease for Term of Life ; but Lease for Term of Years, &c. shall be extended, &c. Goods demised, pawned or pledged, may not be taken. 22 E. 4. fol. 10. 34 H. 8. Br. Pleadg. 28. Nor Goods distrained for Rent, &c. may not be taken.

Note. That upon the Statute-Merchant or Staple, all the Fee-simple Lands which the Conusor had at the Time of the said Statute acknowledged, or at any Time after, shall be liable to the said Statute, to whomsoever they be afterwards sold, by Alienation, Feoffment, or otherwise. *Stat. de Mercator.* 13 E. 1. 27. c. 9. and 23 H. 8. Co. 3. 12. But if the Debtor die, the Body of his Heir shall not be taken, but his Lands in Fee that descend to him by the Conusor, shall be taken (as aforesaid) if he be of full Age, or when he shall attain full Age, until the said Debt be levied. *Stat. ibid.* Copyhold Lands are not liable, nor shall be extended ; nor Lease for Term of Life : But Lease for Term of Years, and all other Goods and Chattels of the Conusor or Debtor are liable, and shall be extended, which the Conusor hath in his own Possession, and to his Use, at the Time of the Execution sued or awarded. But Goods demised, pawned or pledged, may not be taken in Execution for his Debt that demised or pledged them, during the

Time

Time or Term that they were demised or pledged. 22 E. 4. f. 10. 34 H. 8. Br. Pledg. 28. Also Goods distrained for Rent, Amerciament, Damage Feasant, &c. and are impounded in *custodia legis*, during the Time that they are so, may not be taken in Execution. See Br. Pledg. 28.

If the Conusor of a Statute-Merchant or Staple, &c. be taken, and die in Execution, yet the Conussee shall have Execution of his Lands and Goods. Co. 5. 86. 87. Fitz. 246. b. or if the Conusor be taken in Execution, and escape, yet his Goods and Lands shall be taken and extended upon by the said Statute for the Escape; and the Action that the Plaintiff had against the Sheriff for the Escape, is no Satisfaction of the Debt.

If the Conusor die in Execution; the Conussee may have Execution of his Lands and Goods.

Co. 5. 86. & 87. Fitz. 246. b. Or if the Conusor escape, his Goods and Lands shall be extended.

Certificate of the Statute-Merchant was sued forth, and Execution sued in the same County; the Sheriff returned *Non est inventus*, for which the Plaintiff sued another Certificate to the Mayor, by reason of which the Party was taken; and it was holden, that the second Certificate was not grantable, yet the Party taken would not be set at Liberty, by 28 E. 3. 91. Execution, 93.

A *Non est inventus* returned upon the first Certificate, a 2d not grantable, yet, &c.

28 Ed. 3. 91. Execution, 93.

Where there are several Certificates in divers Courts upon one Statute, Execution sued in the one shall not stay that in the other, because they are intended several Statutes; but it seems he may sue to the Mayor to certify if there be another Statute or not, and so be helped. 29 Aff. 29. And because where a Certificate is sued in the Common Pleas, and the same Plaintiff sues another in the King's Bench, and the Justices were certified by the Mayor that all was but one Statute, the Parties caused the Record to come out of the Common Pleas into the King's Bench, and then a *Capias* shall issue out against the Conusor; and yet one Conusor was taken before the Common Pleas, but it appeared that he afterward escaped. 29 Aff. 41.

Several Certificates in divers Courts upon one Statute, Execution sued in the one shall not stay that in the other. 29 Aff. 29. 29 Aff. 41.

A Statute which was certified for the Testator, shall by a special Writ be certified for the Executor. F. N. B. 132. so where it is not sufficiently certified before; so where the Party keeps it in his Hands; so where the first Certificate is lost; and if the Mayor will not certify it, a *Certiorari* shall be directed unto him. F. N. B. 244.

A Statute certified for the Testator, shall be certified for the

Executor. F. N. B. 132. F. N. B. 244.

The Mayor,
&c. hath
 Power to
 hold Pleas
 done in the
 Staple.

Non est in-
ventus re-
 turned up-
 on a *Ca-*
pias in the
 Common-
 pleas, *Ca-*
pias & ex-
tendi fa-
cias shall
 not issue
 out there,
 without

shewing the Statute to the Justices, *&c.* 37 H. 6. 6. & 7.

Statute
 must be
 shewed at
 the Day of
 the Return,
&c. 26 H.
 6. Ex. 6.

A Stranger
 may have
 Execution
 where the
 Recognisee
 is dead.

Or a Sta-
 tute be
 made to
 two, yet
 one may have Execution, *&c.*

Executors
 must sue
 out a *Scire*
facias be-
 fore they
 can have
 Execution,
&c.

17 E. 3. 31.
 18 E. 3. 10.

Execution
 upon the
 Statute

sued into divers Counties, upon *Nilil* returned in one County, he shall have Execution of the whole in the other, *&c.* 16 E. 3. Exec. 49. 41 E. 3.

The Mayor of the Staple hath Power to hold Plea of Things done in the Staple, and upon a Statute acknowledged before him Execution may be sued, or in the Chancery, at the Pleasure of the Party. 9 H. 6. *Jurisdic.* 6.

Upon a Statute-Merchant, a *Capias* issued out of the Chancery returnable in the Common Pleas, the Sheriff did return *Non est inventus*: Now *Capias & Extendi facias* shall not issue out of the Common Pleas without shewing the Statute to the Justices, although he had shewed the same in the Chancery before; and if the Sheriff hath returned *Cepi corpus*, and hath the Body here, if he do not shew the Statute, the Party shall be discharged although it be lost; but upon a Statute-Staple he must shew the same upon the *Capias* awarded, but not afterwards, because in the same Place. 37 H. 6. 6. & 7.

It was holden, that if a Statute be certified, the Plaintiff shall have Execution without shewing of it; but if he doth not shew it at the Day of the Return, the other shall be at large, although he have Execution of the Body of one or of all the Defendants. 26 H. 6. *Execution*, 6. See the Statute of 5 H. 4. c. 12.

Vavasor said, that he saw where the Recognisee died, and a Stranger came in his own Name, and shewed the Statute, and had Execution, although the other came not in proper Person: And upon a Statute made to two, if one come with it, he shall have Execution in both their Names; and it is a common Course, that every Stranger who comes with the Statute, shall have Execution upon it in the Name of the Recognisee. 12 E. 4. 10. & 11. *Execut.* 14.

And upon *Non est inventus* returned upon the Certificate where the Plaintiff died, his Executors shewed the Statute, and had Execution of it. 17 E. 3. 31. But see 18 E. 3. 10. he shall not have it without a *Scire facias*; vide *Eliz. Dyer, &c.* Conusee of a Statute-Merchant had it certified in the Chancery, and thereupon had a *Capias* upon it and died; upon the shewing of the Statute his Executors had a *Scire facias*.

The Opinion was, That if a Man sue Execution of a Statute-Merchant in divers Counties, in each proportionable, viz. 20 l. in one, and 20 l. in another County; yet upon *Nilil* re-

turned

turned in one County, he shall have Execution of the whole in the other, if he hath Assets there. 16 E. 3. Execution, 49. And a Man may well pray Execution of the Body in one County, and an *Elegit* of the Land in the other County. Execution, 38.

If a Statute-Merchant be sued of Parcel of the Lands of the Comisor, in the Name of all his Lands, he shall never extend on the rest of the Lands. Mich. 22. E. 3. f. 14.

Statute
sued of
Parcel of
the Lands

in the Name of them all, shall never extend the rest.

If three are bound to one in a Statute-Merchant, and every one of them by themselves, *quemlibet eorum per se*. I may sue Execution against one of them only, or against them all, at my Pleasure.

Three
bound to
one in a
Statute
severally,
Execution
or all.

may be against one,

If an Infant bind himself in a Statute-Merchant, or Statute-Staple, he may avoid this during his Nonage by *Audita Querela*, to avoid this Statute by Matter of *fact*; and the like Law if the Statute be acknowledged by duress of Imprisonment. See *Anderson's Reports*, lib. 2. fol. 185.

Infant
bound in a
Statute
may avoid
it during
his Minori-
ty, &c.

The like by duress of Imprisonment.

Statute-Staple.

WE now come to the Statute-Staple, which is duplicate, to use the Words of Mr. *West*, viz. either,

1. Properly so called; or,
2. Improperly.

Proper.
Improper.

1. A Statute-Staple properly so called, is an Obligation acknowledged before the Mayor of the Staple, in the Presence of one or two Constables of the same Staple: And by Vertue of such Statute-Staple, the Creditor or Recognisee may forthwith have Execution of the Body, Lands and Goods of the Debtor or Recognisor; and this is founded upon the Statute of 27 E. 3. c. 9.

Statute-
Staple pro-
per, what.

27 E. 3. c. 9.

2. A Statute-Staple improper, is an Obligation of Record founded upon the Statute of 23 H. 8. c. 6. of the Nature and Validity of a proper Statute-Staple, as touching the Form and Execution thereof, and acknowledged before one of the

Statute-
Staple im-
proper, what.

West, Sym.

1 L. 2.

Sect. 152,

153, 154,

155.

Note.

27 E. 4.

The Manner of proceeding upon a Statute-Staple

Liberate.

Note.

Co. L. 6.

45. C. 2.

in Higgin's Case.

chief Justices, and in their Absence before the Mayor of the Staple at Westminster, and Recorder of London. (You have the Forms of all these Obligations or Statutes in West, Part 1: Symb. L. 2. Sect. 152, 153, 154, 155.) It is sealed with three Seals, viz. with the Seal of the Conusor, with the Seal of the King, and of one of the said Justices, or of the Mayor and Recorder. 23 H. 8. c. 6. And note, that all Statutes-Staple and Merchant shall be brought to the Clerk of the Recognizances within four Months, and inrolled within six Months; otherwise such Statute shall be void against Purchasers, &c.

27 Eliz. c. 4.

The Manner of the Proceedings upon it are the same with the Statute-Merchant, saving that in a Statute-Staple, presently after the Certificate into the Chancery, the Conusee shall have a Writ to take his Body, and extend his Lands and Goods, returnable in Chancery; and this Writ is a Commission directed to the Sheriff of the County where the Lands and Goods lie, for the valuing of the same, whereby all the Lands, Goods and Chattels of the Conusor shall be appraised and valued at a reasonable Rate by a Jury of Men sworn, charged by the Sheriff for that Purpose; which Inquisition so taken, is to be returned by the Sheriff; and thereupon, the Lands, Goods and Chattels are to be taken into the Sheriff's Hands, and by him to be delivered to the Conusee (which the Sheriff may do if he will without any Writ) to hold unto the Conusee, till he be satisfied his Debt and Damages; and if the Sheriff refuse so to do, the Conusee shall have a Writ out of the Chancery called a *Liberate*, to compel him to deliver to the Conusee the Lands, Goods and Chattels so found by Inquisition, and taken into his Hands upon the Extent, which the Sheriff need not return. Fitz. Account 97. Execution in toto, Bro. Stat. in toto. Stat. Aton-Burnel de Mercat. 27 E. 3. 9. F. N. B. 130, 131, 132. Dyer 180. Co. 4. 67. Plow. 61, 62, 82. Co. super Litt. 290. Co. 5. 87, &c. See more of the Proceedings in Statute-Merchant.

It was adjudged in B. R. Hill. 42 Eliz. that a Debt recovered in the King's Court by Judgment, shall be paid before a Bond in Nature of a Statute Staple or Merchant; because the Judgment is a Matter of a more high and worthy Nature than private portable Pocket-Records: Also it shall be preferred before a Recognizance acknowledged in any Court by Assent, which may also be privately done; and a Judgment so given in the King's Court, upon ordinary and judicial Proceeding, which remain in the Custody of a sworn Officer, are Records which are preferred in Law before such Statutes; & non refert, whether the Judgment, or Recognizance, or Statute be first; for be the Judgment first or last, it shall be first satisfied, &c. And so it was holden *per totam Curiam* in the Common

mon-Pleas in *Pemberton and Bartram's Case*, *Plow.* 32 *El. Rot.* 235. which see in the End of *Sadler's Case* in the Fourth Report. *Dyer* 80. 53.

Pemberton and Bartram's Case.
Plow 32
El Rot.
235.

Recognizance, what it is.

W E come now to the third, which is Recognizance; and that is an Obligation or Bond of Record, acknowledged in a Court of Record, testifying the Recognizor to owe to the Recognizee a certain Sum of Money, and is acknowledged in some Court of Record, or before some Judge, or other Officer of such Court, having Authority to take the same, as the Master of the Chancery, the Judges of either Bench, of the Exchequer, Justices of Peace, &c. And those that be meer Recognizances are not sealed but inrolled; and yet some are sealed with the Seal of the Party, and may be with Condition annexed, or may be single, and then to have Indentures of Defeasance.

If the Money be not paid at the Day, the Conusee proceeds upon it after this Manner: The Conusee, his Executor or Administrator, is to bring a *Scire facias* against the Conusor; or if he be dead, against his Heirs, when they shall be of full Age; or if the Lands the Conusor had at the Time of the entering into the Recognizance be sold, against the Purchasers of those Lands, which the Conusor had at any Time after the Recognizance entred into, to warn them to come into that Court whence the *Scire facias* cometh, and to shew Cause why Execution should not be done upon the said Recognizance: And if the Party or Parties cannot be found to be warned, or being warned do not appear at the Time, or appearing, shew no Cause why the Debt should not be levied, then the Conusee shall have Execution of a Moiety of his Lands by *Elegit*; or if the Conusor be living, of all his Goods by *Levari*, or *Fieri facias* at his Election; but he cannot have Execution of his Body, unless he bring an Action of Debt upon the Recognizance, or if it be by Course of the Court, as it is in the King's Bench upon a Bail, in which Case a *Capias* doth lie. *Dyer* 360. 315. *West.* 2. 18. *Bro. Execution* 159. *Co.* 3. 11. 115. *H. 7.* 16. *Kitch.* 117. And the Proceedings against the Sureties in Statutes shall be as the Proceeding against the Principal; but in case where there are Moveables of the Principal to satisfy the Debt, the Sureties (as it seems) shall not be charged. *Stat. de Mercatoribus.*

The Manner of proceeding upon a Recognizance

Elegit.
Levari
facias.
Fieri fac.
Capias.

Proceedings against the Sureties.

Execution of all the Goods and Chattels, and a Moiety of the Lands.

Execution by Vertue or Force of a Recognizance shall be of all the Goods and Chattels of the Recognisor (except the Beasts of the Plough, and Implements of Husbandry) and of the Moiety of his Lands. *West*, 103.

Execution of the Land which the Recognisor had at the Time of the Recognizance, &c.

The Recognisee by the first Writ shall not have Execution, but of the Land which the Recognisor had at the Time of the Recognizance, or since; and upon Return that he had no Land, then he shall have a Writ to try who had it at the Time, &c. or after, &c. 36 E. 3. *Execut.* 47. 19 E. 3. 1.

Two sued in Execution, the Money delivered to the Attorney of the one, and to another himself, good, &c.

Where two sued Execution, the Money was delivered to one, and the Attorney of the other. *Mich.* 14 E. 3. *Execution* 76 and the Defendant in Court did pay the Money to one, the other being absent; and it was good, and the Recognizance was withdrawn. *Mich.* 22 E. 3. 15. *Execution* 87.

The Heir charged, &c.

The Heir shall be charged in Debt of the Lands which he had by Descent, the Day of the Writ brought, and not the Day of the Judgment. *Mich.* 18 E. 2. *Execution* 241.

Execution upon Statute and finds Bail, and doth not appear at the Day, &c.

If a Man be in Execution upon a Statute, and finds Bail, and does not appear at the Day, but at another Day the Bail brings him in: Now it is in the Election of the Plaintiff to take Execution of his Body and Land, or to take the Bail. See 59 E. 3. *Execution* 43.

Two sue Execution, and one dies before the Extent, yet the Lands shall be extended. 11 R. 2.

If two sue Execution, and before the Extent one dieth, the Sheriff shall extend the Land, and shall deliver the same to the other. 11 R. 2. *Brief*, 938. But if two sue Execution of a Statute-Merchant, and the Reconisor is returned dead, and then one of the Conusees doth acknowledge the Death of his Companion, he shall not have Execution without shewing a Writ out of Chancery. 25 E. 3. *Execution* 92.

Brief, 938.

Otherwise upon a Statute Merchant.

Three bound in a Statute jointly and severally, he shall have Execution against one, or all, but not against two, &c.

Where three are bound in a Statute jointly and severally, the Plaintiff shall have Execution against one, or all of them, at his Election, and not against two; and so of an Obligation: But if he bring Debt against them all upon a joint Bond, the Execution shall be against all; but if he bring it by several *Præcipe's*, he shall not have Execution but against one, 34 E. 3. *Execution* 129. 14 H. 4. 19. *Execution* 29.

present

Note

Note further, That a Recognizance, though in the special Signification it doth but acknowledge a certain Debt, and is executed upon all the Goods, and half the Lands of the Recognizor; yet by Extention it is drawn also to the Bonds or Obligations commonly called *Statute-Merchant* and *Statute-Staple*; as appeareth by the *Register of Original Writs*, fol. 146. 151, 152.

Elegit, what.

Elegit is a judicial Writ by the Statute, and lieth for him that hath recovered a Debt or Damages against one not able in his Goods to satisfie; and directed to the Sheriff, commanding him, that he make Delivery of half the Party's Lands or Tenements, and all his Goods and Chattels (Beasts for the Plow excepted) *Old N. B. fol. 192. Register of Original Writs, fol. 299. and 301. and the Table of the Register judicial*, which expresseth divers Uses of this Writ.

In *Elegit*, by Force of the Statute of *Westm. 2. cap. 18.* the Sheriff may take in Execution the Moiety of the Lands of the Conusor, and all his Goods and Chattels (except as before) and may deliver them unto the Conussee upon a reasonable Price or Extent until the Debt be satisfied: But the Valuation of the Goods and Lands ought to be first found by the Inquisition of a Jury. *Co. 4. 74.* and the Sheriff is to deliver him Seisin of them, who is Tenant by *Elegit*, and shall do no Waste.

May take a Moiety of the Lands of the Conusor, and all his Goods and Chattels. *West. 2. c. 18.* Valuation of the Goods

and Lands must be found by Inquisition. *Co. 4. 74.*

Upon *Elegit* the Sheriff ought to return the Extent, and also that he hath delivered the Lands, &c. *12 E. 3. Scire fac. 117.* and the Extent shall be good for the Sum due, notwithstanding that it be more. *44 E. 3. 11. Execution 35.*

The Sheriff must return the Extent, and that he hath delivered the Land, &c.

A Man sued an *Elegit*, and had a Term of Years delivered to him in Execution, which the Defendant had in Possession as a Chattel, and adjudged good. An Annuity may be extended, and Rents, &c.

Term of Years delivered in Execution upon *Elegit* good, and also Rents.

The Sheriff must return the Moiety distinctly, unless they be Tenants in Common, &c, *Brownl. Rep. fol. 38.*

In every *Elegit* the Sheriff must return and set out the Moiety distinctly, unless they be Tenants in Common; and in that Case he must return the special Matter. An *Elegit* issued out against one *Griesley*, by the Name of *Griesley, Esq;* who was at the Time of suing out the Writ made Knight and Baronet, and it was insufficient, and the Plaintiff prosecuted a new Writ. *Brownl. Rep. 38.*

The Sheriff cannot deliver a Lease at another Value than what the Jury had found it. Goods cannot be sold by the Owner after the *Teste* of the *Elegit*.

A Lessee had a Lease to the Value of 100 Pounds, and after the *Teste* of the *Elegit*, and before the Sheriff had executed it, assigns his Term to one, who assigns it to the Plaintiff in the *Scire facias*, and afterwards, and before the last Assignment, the Sheriff executes the *Elegit*, and delivers the Lease to the Plaintiff, to be holden, &c. for Satisfaction of the Debt, which came but to 43 l. 6 s. 1 d. and it was held by all the Judges, that the Sheriff could not deliver the Lease at another Value than what the Jury had found it at; and the Sale made by the Sheriff is as strong as if it had been made in the open Market, and that all the Goods and Chattels are bound after the *Teste* of the *Elegit*, and cannot be sold by the Owner after the *Teste* of the Writ. *Brownl. Rep. 38. Comers versus Brandling.*

An Execution valuable without Satisfaction.

There are great Diversities between an Execution not valuable, (as of the Defendant's Body) and an Execution valuable, as of Lands, &c. As if two Men are bound jointly and severally in an Obligation, and the one is sued, condemned, and taken in Execution, and afterwards the other is also sued, condemned, and taken in Execution, and then the first escapes, and the other brings his *Audita Querela*; in that Case he shall be barred to bring that Writ, until the Plaintiff be satisfied. So likewise if the Defendant in Debt die in Execution, yet the Plaintiff may have a new Execution by *Elegit* or *Fieri fac.* But if the Plaintiff have once Execution of the Lands of the Defendant, and after the Lands are evicted, there, before the Statute of 23 H. 8. *cap. 5.* he shall not have any new Execution; for the Execution of the Lands was valuable, and accounted in Law for a Satisfaction, and (to avoid Infiniteness) he shall have but one valuable Satisfaction, or one Execution, with Satisfaction at the Common Law. *Co. 5. 86 b. 3. Blumfield's Case.*

23 H. 8. *cap. 5.*

Note, where a *Capias* lies after an *Elegit*.

If upon an *Elegit* there be no Execution but upon Goods, because there is no Land, and the Goods appear insufficient, he may have a *Capias*. For note, it is in Effect but a *Fieri fac.* though the Word be *Elegit*: But if there be Land extended, then it is otherwise; and yet, *Quare* if the Debt be forty Pounds, and nothing extended but a Lease for three Years, at five Pounds a Year, or the like; for then to that which remaineth, the *Elegit* fails. *Hob. Rep. fol. 58.*

If

If a Judgment be obtained against a Man, who thereupon sells his Land, in whose Hands soever the Land is, it shall be liable to satisfy that Judgment; and to that End shall issue out a *Scire facias* against the Tertenants, if the Debtor die.

If two Writs of *Elegit* be delivered to the Sheriff both at one Time, the Sheriff is to extend the Moiety of all the Lands, and shall give the Moiety to the more ancient Debt; and then he ought to extend a Moiety of the other Moiety, and deliver it to the other; for he cannot deliver a Moiety of all the Lands to one, and the other Moiety to the other. See *Attorneys Academy*, 109.

Several *Elegits* may issue into several Counties where the Land lies.

Lands sold after Judgment shall be liable to satisfy it.

Two Writs of *Elegit* delivered to the Sheriff at one Time, how to be executed.

Several *Elegits* may issue into several Counties.

If a Man be bound in a Recognizance to pay Money at a certain Day; after the Year and Day past, the Conusee is to sue forth a *Scire facias* against the Recognisor, to shew why the Recognisee should not have Execution: And if the Party be summoned, and appear not; and if he doth appear, & *nihil dicit*, the Conusee may sue forth a Writ of *Elegit* to have Execution of all his Goods, and of the Moiety of his Lands; and if the Sheriff returneth upon the *Elegit*, that the Conusor had made a Feoffment of Part of the Lands to divers Persons, and that he hath infeoffed the King of the Residue; those of which the King is infeoffed are discharged, but a *Scire fac.* lieth against the other Feoffees; and if they cannot plead any Thing in Bar of the Execution, the Recognisee shall have Execution against them of those Lands by *Elegit*. *F. N. B. acc.*

In Debt upon an Obligation, the Defendant pleaded Conditions performed; and being at Issue upon a Point certain, the Defendant before Trial, knowing that the Verdict would go against him, conveyed his Lands to others, upon Condition of Payment of 20 *l.* but he himself took the Profits of them: The Plaintiff sued forth an *Elegit* to have Moiety of the Land in Execution; the Sheriff returned, that he and the Jury doubted if the Lands should be extended: It was the Opinion of the Court, that the Lands were extendable upon the *Elegit*. *Mich. 13 Eliz. Dyer 294. See Co. 3 Part, 78. in Twin's Case adjudged. 22 Aff. 44.*

Upon a Writ of *Elegit* the Sheriff made his Return, that he had delivered to the Plaintiff *bona & catalla defendantis ad valenciam 20 l. per rationabile pretium*; and that he had delivered unto him twenty Acres of Lands of the Defendant's, which is the Moiety of all his Lands, *per rationabile extentum*; but did not return, that there was an Inquisition taken of it by the Oath of twelve Men; and for that Cause the Return was holden insufficient: for the *Elegit* ought to be by Inquisition,

sition, for the Sheriff himself cannot extend the Lands. *Trim. 1 Ma. Dyer 100.*

In Debt against the Heir upon an Obligation of his Father, who pleaded, that he had nothing by Descent, which was found against him, the Plaintiff had an *Elegit* against him, as well of the Land which he had by Purchase, as of that which descended unto him; but the Reason thereof, as it seems, was by reason of his false Plea. *21 E. 3. 9. 10.*

Elegit into
another
County on
Nihil re-
turned.

If the Sheriff upon an *Elegit* awarded return, that the Defendant hath no Lands in the same County; upon a *Testatum* he shall have an *Elegit* into another County. *21 H. 7. 19. 26 H. 8. 7. 20 E. 3. Fitz. Title Process 43. But see 18 E. 2. Fitz. Title Execution 140.* where it is holden, that he shall not have *Elegit* unto another County upon a *Nihil* returned.

Execution
on a Re-
cognizance

A. acknowledged a Recognizance of 250 *l.* unto the Chamberlain of London, and his Successor; and afterwards he acknowledged a Statute-Staple of 200 *l.* to *B.* *B.* sues Execution by a *Liberate*, which is not returned: The Successor of the Chamberlain sues Execution by Precept to a Serjeant at Mace, in the Nature of an *Elegit*, and hath the Moiety of the Lands of *A.* delivered in Execution. *A.* dies: It was resolved in this Case, amongst other Points: 1. That the Execution by the Serjeant at Mace was good, notwithstanding the Statute of *W. 1. m. 2. cap. 18.* which is, *Viccomes liberet ei medietatem*; for the Statute extends to every immediate Officer to any Court of Record. 2. That the Execution of the *Elegit* was good enough, without suing a *Scire facias* against *B.* being by Matter of Record; but it was said, that if the Sheriff had returned the Execution, he ought to have had a *Scire facias* against *B.* *35 Eliz. Co. 4. Part 64. Fulwood's Case.*

Elegit,
when a
Bar.

In an Action of Debt, the Plaintiff declared of a Recovery of Costs and Damages in a Writ of Entry; the Defendant pleaded in Bar, that the Plaintiff immediately after the Judgment took forth an *Elegit*, and delivered the Writ to the Sheriff, who executed the same, by Delivery of the Moiety of the Land to the Plaintiff; but the Writ was not returned; yet it was holden a good Bar, because the Plaintiff cannot vary from the Execution of which he hath made Election upon Record. *Pasch. 13 Eliz. Dyer 299.*

Upon an Execution upon an *Elegit*, if there be no Execution but upon Goods, and the Goods be not sufficient to satisfy the Debt, and there is no Land, it was the Opinion of *Harbort*, Chief Justice, that the Party may have a *Capias* against the Defendant; for now it is in effect but a *Fieri facias* altho' the Word be *Elegit*; but if the Land be extended, it is otherwise. And yet *Quare*, if the Debt be 40 *l.* and nothing extended but a Lease for three Years, at 5 *l.* a Year for them; as to that which remains, the *Elegit* fails. See *Hob. 58, 59.* in *Foster and Jackson's Case.*

The

The Conusor and the Conusee of a Statute both died, the Executors of the Conusee sued forth Execution by *Elegit*; upon which Writ the Sheriff returned the Death of the Conusor, and also an Inquisition of Extent of the Lands of the Conusor; but in the Inquisition no Estate was returned, but generally, that the Conusor was seized at the Day of the Recognizance acknowledged of the Manor of B. notwithstanding a *Liberate* issued forth upon that Return, and the Executors accepted of it according to the Extent. The Doubt was, If the Executors die before any Profits received by them of the Land upon that Extent, if their Executors might have a Re-extent upon that insufficient and uncertain Return? And it was the Opinion of the Justices that they might; for the first Extent was void. For the Return, that he was seized, might be taken, either of an Estate for Life, or in Tail; in which Case, after the Death of the Conusor, his Land is not extendable; and where the Death of the Conusor appears in the Return, it ought to be found that he was seized of an Estate in Fee-simple only, and not of any other Estate. *Pasch. 13 Eliz. Dyer 299.*

A Writ of *Elegit* was sued forth after Judgment; the Writ recited the Judgment, *Quod elegit executionem* of the Goods, of the Moiety of the Lands; and the Writ was, *Tibi precipimus quod bona & catalla* of the Defendant, *qua habuit die judicii prædicti. redditu deliberari facias.* omitting the Words, *Et medieta-tem terrarum & tenementorum, Tenendum* the said Goods, and the Moiety of the said Lands, *Quousque debitum levetur.* The Sheriff extended the Moiety of the Lands and the Goods, and delivered the Moiety of the Land, and returned the Inquisition. It was moved, that the Writ might be amended, being but the Misprision of the Clerk, and that the Extent might stand. But it was the Opinion of the Court, that it should not be amended, but he might have a new *Elegit*, because the Inquisition was taken without Warrant. *Mich. 5. Car. in B. R. Walker and Rich's Case. Cro. 1 Part, 116.*

In Trespass upon a Demurrer, the Case was, the Sheriff returned upon an *Elegit*, that the Party had not any Lands, but only within the Liberty of B. and that I. S. there had Execution, and Return of Writs, who enquired and returned an Extent upon Inquisition, and that the Bailiff delivered the Moiety of the Lands extended to the Party, and by Virtue of that Extent the Plaintiff entred. The first Question was, Whether the Bailiff of a Liberty might make Inquisition and Extent upon an *Elegit* by Warrant from the Sheriff. It was resolved that he might. 2 When the Jury finds the Seisin of the Land, if the Jury ought to set out the Moiety for the Plaintiff, or the Bailiff: It was resolved, that the Jury shall extend all the Land, and the Bailiff, or Sheriff, where no Franchise is, shall deliver the Moiety to the Party, and not the

Re-extent
by Execu-
tors.

Amend-
ment.

Extent by
Bailiff.

The whole
to be ex-
tended,
and half
delivered.
the

the Jury. *Hill. 8 Car. in B. R. Sparrow and Mattersock's Case. Cro. 1 Part, 232.*

What Execution good, tho' the Writ is not returned.

Note, That it was resolved by the Court in *Fulwood's Case*, that the Execution of a *Liberate* was good, although the Writ was not returned: and so it is upon a *Capias ad satisfaciendum*, and *Habere facias possessionem*, and all other Writs where Land only is to be delivered, Seisin had, or Goods sold, they are good, although the Writs are not returned: But otherwise it is, where an Inquest is to be taken, as in an *Elegit*. and that is to the Intent that the Court may judge of the Sufficiency of the Inquisition. *Co. 4 Part, 65. See Co. 4 Part, 74.*

Fault in the Roll, not aided by the Writ.

A. recovered 400 l. against E. O. who died; and upon a Sci. fac. the Sheriff returned B. Tertenant Omnium terrarum & tenementorum in balliva sua, qua fuerunt pred. E. O. &c. and Judgment was given, that A. should have Execution against the said B, whereupon A. prayed Elegit, which was entred upon the Roll, Elegit sibi liberari medietatem omnium terrarum & tenementorum in Com. S. Tenend. &c. quousque, &c. but the Words que fuerunt pred. E. O. were omitted: And for that the Judgment was reversed, quoad adjudicationem executionis upon the Elegit; and yet it was holden by the Court, that the Writ it self, and the Return of it, were well in that Point; but it was said, where the Roll is faulty, the Writ will not help it. Mich. 5. Jac. in the Exchequer. Keer and Owen's Case. Hob. 90.

No Capias nor Fi. fac. doth lie after an Elegit.

And why?

If a Man doth pray to have an *Elegit* to have the Moiety of the Defendant's Lands in Execution, and the Sheriff returned that he had no Lands, whereupon he prayed a *Capias* to arrest the Party, but the Court would not grant it; but if the Conusee, &c. would tarry till Lands did come to the Defendant, or Goods, then, &c. But now he could not have a *Capias*, nor a *Fieri facias*. And the Cause is that the Entry in the Roll is, that he hath chosen his Execution of the Moiety of his Lands, the which he must stand to, because it is an Execution in the Superlative. *Mich. 30 E. 3. 24.*

Mich. 30 E. 3. c. 24.

Capias ad satisfaciendum.

IT is a Writ (by the Statute) after Judgment, lying where a Man recovereth in an Action personal, as Debt, or Damages, or Detinue; and he against whom the Debt is recovered, hath no Lands or Tenements, nor sufficient Goods, whereof the Debt may be levied: In this Case, he that recovereth shall have this Writ to the Sheriff, commanding him, that he take the Body of him against whom the Debt is recovered,

vered, and he shall be imprisoned until Satisfaction be made to the Recoveror. And the Sheriff must keep him *in salvo & arcta custodia*, unless he intend to pay the Debt himself: For if a Prisoner be taken upon an Execution, and he shall afterwards let him go at Liberty before the Debt be satisfied, &c. the Creditor may have either an Action of Debt, or an Action upon the Case against the Sheriff, and so recover his Debt. *Fitz. 93. a. c.*

A Man shall not have a *Ca. Sa.* but when *Capias* lieth in the Original. *11 H. 6. 18. See Ca. 3 Part, Sir William Herbert's Case. 8 H. 6. 9. 22 E. 4. 22.*

Upon this Writ the Sheriff can take nothing but the Body of the Defendant; for the Writ is to do no more but to take his Body, and to detain him in Prison till he hath satisfied the Debt. *Co. 5. 8.*

When a Man is in the Custody of the Sheriff by Process of Law, and afterwards another Writ is delivered to him, to arrest him who is in Custody, presently he is in his Custody by Force of the second Writ by Judgment of Law, although he do not actually arrest him; for to what Purpose shall he arrest him, who is and was before in his Custody? *Et lex non precipit inutilia, quia inutilis labor stultus.* And the Words of the *Capias ad satisfaciendum* are not only *quod capias*, &c. but *quod salvo custodias*, &c. *Ita quod habeas corpus*, &c. So that although he cannot take him whom he hath in his keeping, yet he may safely keep him; and therewith agreeth. *7 H. 4. 30.*

If two Men be bound jointly and severally in an Obligation, the one is sued, condemned, and taken in Execution, yet the other may not go scot-free; for he may be likewise sued and taken in Execution, until the Plaintiff be satisfied of his entire Debt. *Co. 5. 86.* But if the Creditor be satisfied by the first that was in Execution, the other may plead this Satisfaction, and be discharged. *29 H. 8. Title Executors b. 132.*

A Woman recovering Damages in a Writ of Dower, she cannot have Execution of these Damages recovered by a *Capias ad satisfaciendum*, because the *Capias* was not in the Original. *11 H. 7. fol. 5. 2 H. 7. fol. 7.*

If a Man be condemned in an Action of Debt, and the Sheriff hath him in Execution, by a *Capias ad satisfaciendum*, by arresting him, although the Sheriff do not return the Writ, an Action of false imprisonment is not to be brought against the Sheriff for not making Return of the Writ; for the Writ of *Capias ad satisfaciendum* is not as other *Capias*, that is, so that you have his Body before, &c. For in every *Capias ad satisfaciendum* the Judgment is given before, and it is but to take Execution

Prisoners must be kept *in salvo & arcta custodia*.

Ca. Sa. where a *Capias* lies in the Original.

Nothing but the Body can be taken by this Writ. *Co. 5. 8* A Man in the Custody of the Sheriff, and a second Writ is delivered to him, he shall be in his Custody upon it, although not actually arrested.

7 H. 4. 33. Two bound in an Obligation jointly and severally, both may be sued and taken in Execution, &c.

No *Ca. Sa.* for Damages in a Writ of Dower. No Return required upon a *Ca. Sa.*

of the Party, in which no Answer nor Return availeth. *Pasch.* 21 H. 7. f. 13.

If one be in Execution by his Body, and the Party doth release unto him all Actions, Suits and Debts, he shall not have an *Elegit*, nor a *Capias*, because the Duty is extinct. 26 H. 6. Execution 7.

If a Defendant hath a *Superfedeas*, *Quis erronee emanavit*, and gives it to the Sheriff after Arrest, the Sheriff must discharge the Defendant: But if the *Superfedeas* be grounded upon a Writ of Error, it cannot discharge the Defendant; for the Words of that Writ are, *Si executio non fiat.* Hob. 329. 34 H. 6. 18. & 45. 19 H. 6. 8, 6 H. 7. 17. 19 H. 6. 43. 34 H. 6. 18.

Capias pro Fine, Capias Utlagatum, Capias ad Valentiam.

THere are three other Writs of *Capias* after Judgment, viz.

1. *Capias pro Fine.*
2. *Capias Utlagatum.*
3. *Capias ad Valentiam.*

Cap. pro Fine, what it is.

An *Elegit* sued after one is taken for the King's Fine, he shall go at large.

One taken upon a *Cap.* &c. in Trespas, &c. 47 E. 3. Exec. 41.

1. The *Capias pro Fine* is, where one being fined by Judgment unto the King, upon some Offence committed against a Statute, doth not discharge it, according to the Judgment: by this is his Body taken, and imprisoned till he pay the Fine. F. N. B. 76. Co. 11. 42. 8. 60.

If the Plaintiff sue an *Elegit* after the Defendant is taken for the King's Fine, he shall go at large; for such Execution doth discharge the Body. 7 H. 6. 6, 7. So if he sue by *Fieri Facias*. 18 E. 3. Execut. 54. Yet upon *Nihil* returned, he may have a *Capias*, &c.

If the Defendant be taken upon a *Capias pro Fine*, in Trespas, and the Plaintiff prays, that he may remain in Prison for his Execution, the Plaintiff not satisfied shall have an Execution afterwards. So if one pray an *Elegit* of Lands, and nothing is returned but a Rent, he shall have an *Elegit* of the same. 47 E. 3. Execut. 41. See F. N. B. 246. and Stat. 32 H. 8. cap. 5.

2. *Capias Ullagatum* is a Writ of Execution (after Judgment of the Coroner of the County, into which the Exigent and Proclamation issued) which lieth against him that is outlawed, by the which the Sheriff upon the Receipt thereof apprehendeth the Party outlawed for not appearing upon the Exigent, and keepeth him *in salvo custodia (viz.)* in safe Custody.

Cap. utlag.
what it is.

If a *Capias Ullagatum* issueth to the Sheriff to take a Party, and to enquire what Lands and Tenements he had, and the Sheriff finds by an Inquisition that he is seised of many Lands, and continues Possession in them, and the Sheriff do out me, I may have an Action of Trespass against him. *Winch. f. 78.*

Capias Ullagatum & inquiras de bonis & catallis, is a Writ of the same Nature with the precedent, but that it giveth a further Power to the Sheriff, over and besides the Apprehension of his Body, to enquire also of his Goods and Chattels. *Minsh. fol. 111. B.*

Cap. utlag.
& *inquiras*
de bonis &
catallis,
what it is.

3. *Capias ad Valentiam*, is a Writ of Execution, and lieth where the Tenant is impleaded of certain Lands, and he voucheth to Warranty another, against whom the Summons *ad Warrantizandum* hath been awarded, and the Vouchee cometh not in at the Day given: Then if the Demandant recover against the Tenant, he shall have this Writ against the Vouchee, and shall recover so much in Value of the Vouchee's Lands, if he have so much: And if he have not so much, then the Tenant shall have Execution by this Writ of so much Lands and Tenements as descend to him in Fee-simple; or if he purchase afterwards, the Tenant shall have against him a Refummons; and if he can say nothing, he shall recover the Value. *Old Natura Breuium, fol. 161, 162. Terms of the Law, 45, 46.*

Cap. ad
Valen. what
it is.

Fieri Facias, what it is.

A *Fieri Facias* is a Judicial Writ, and lieth for him that hath recovered Debt or Damage, directed to the Sheriff, commanding him to levy the Debt or Damages of the Defendant's Goods; it must be brought within the Year and Day. This Writ hath beginning from *Westm. 2. c. 18. Anno 13 E. 1. Old Nat. Br. fol. 150.* See great Diversity thereof in the Table of the Register Judicial. Ver. *Fieri Facias.*

Westm 2.
c. 18. 13
E. 1.
What

Before the Statute of 29 Car. 2. cap. 2. the Goods were liable to the Execution from the Tesse of the *Fieri Facias*, as in *Wangford's* and *Sexton's* Case, *Levy. Rep. 304.* But by this Statute no Writ of *Fieri Facias*, or other Execution shall bind the Property of the Goods against whom such Writ of Execution it sued forth, but from the Time the Writ is delivered

Time the
Execution
binds the
Property
of the
Goods.

to

to the Sheriff, Under-Sheriff, or Coroners, to be executed. And the Sheriff, Under-Sheriff and Coroners, their Deputies and Agents, shall upon Receipt of such Execution (without Fee) indorse on the Back of the Writ the Day of the Month and Year whereon he or they received the same.

The Sheriff must be cautious in executing this Writ, &c.

The Sheriff or Bailiff ought to be very cautious in executing this Writ; for if the Goods or Lease which shall be taken, be the Goods of a Stranger, though they be found in the Possession of the Defendant, yet if it be found upon Trial, that the Defendant hath no Property in those Goods or Chattels, then the Sheriff or Bailiff that executed that Writ, shall be a Trespasser to the right Owner of the Goods, who shall recover Damage to the Value of the Goods so taken, with Costs of Suit, although the Officer hath delivered them to the Plaintiff in Execution. *Dalton's Office of Sheriffs, fol. 60.* Therefore the safest Course for the Sheriff or Bailiff is, not to take any Goods in Execution, unless they plainly appear to them to be the proper Goods of the Defendant; for the Officer is bound at his Peril to take Knowledge whose Goods they be, *Ibid.*

Dalt. Office of Sheriffs, fol. 60.

If a *Fieri Facias* be awarded for 20 *l.* to the Sheriff, upon which he takes an entire Chattel, and sells it for 30 *l.* and returns the *Fieri Facias* with the 20 *l.* in Court, he may detain the Surplusage until the Defendant comes to demand it of him; for he is not obliged to search out the Defendant; but if a *Fieri Facias* be awarded for 40 *l.* by Force of which the Sheriff takes five Oxen, every one at the Value of five Pounds, and sells them all, the Defendant may have an Action of Trespass against the Sheriff. *Noy, fol. 59. Woodby against Coles, &c.*

Sale upon a *Fieri fac.* shall stand, though Judgment be afterwards reversed.

Sale by the Sheriff upon a *Fieri Facias* shall stand, albeit the Judgment afterwards was reversed, and the Plaintiff in it restored to the Value, *Dyer 363. 24. Co. 8. 76. b. Mol. Manning's Case.*

Upon a Judgment against an Executor or Administrator, no *Ca. sa. lies*, or *Fi. fac.* &c. But if a *Devasavit* be returned, then a *Capias ad satisfaciendum*, or a *Fieri Facias de bonis propriis*, &c.

Upon a Judgment against an Executor or Administrator, the Plaintiff cannot have a *Capias ad satisfaciendum* against the Body, but a *Fieri Facias de bonis Testatoris*; and if the Plaintiff return a *Devasavit*, then a *Capias ad satisfaciendum* against the Body, or a *Fieri Facias de bonis propriis*. And if there be two Executors, and the Sheriff returns a *Devasavit* against one of them, and he dies, the other shall not be charged for that *Devasavit*; for the one shall not prejudice the other; but a Gift by one of them is good against the other.

If a *Devasavit* be returned, then a *Capias ad satisfaciendum*, or a *Fieri Facias de bonis propriis*, &c.

A *Scire Facias* after the Year for Damages recovered in Waste, and a *Nihil* returned, he shall not have an *Elegit*, until the Tenants be warned; but he may have a *Fieri Facias* without warning of them. 4 E. 3. 23. Execution 99. Old N. B. 168.

After Sci. Fa. no *Elegit* lies until the Tenant be warned, but a *Fi. Fa.* doth,

The Sheriff returned upon a *Fieri Facias*, *Mandavi Ballivo*, who said that he had seised to the Value, but he could not find Buyers; and because the Court cannot send to the Sheriff to have the Money here, as they might upon his own Return, therefore they awarded a Writ to the Sheriff to levy the Money of the Lands and Goods of the Bailiff, to the Value of that which he had seised: The same Law is upon a Seizure of an ancient Sheriff. 5 E. 3. Execution 101.

Goods taken upon a *Fi. fac.* and no Buyers, an Order to levy the Money upon the

Goods and Lands of the Bailiff. 5 E. 3. Exec. 101.

Fieri Facias for Damages recovered in Waste upon a Lease for Years, it was returned, that the Lessee had no Goods but the Remnant of the same Lease; and it was holden, that by *Sicut alias*, the Sheriff might sell the Lease, as well as the Pots and Pans in Execution; for the *Fieri Facias* is *de terris & tallis*, of the Lands and Chattels, &c. 19 E. 3. Exec. 148.

If no Goods be found, the Sheriff may sell a Lease for Years, &c. 19 E. 3. Ex. 148.

A *Fieri Facias* to the Sheriff to levy the Expences of the Knights of the Parliament, the Sheriff may sell the Beasts of one of the Hundred for the whole, or the Beasts of any Person he shall find within the Precinct. 11 H. 4. 2. *Avowry* 52.

The Sheriff returned upon a *Fieri Facias* that he had levied the Money, and that he had the same in Court, whereas he had not the Money at the Day; and then a new Sheriff is chosen; and because it was upon Record, that the old Sheriff had levied the Money, a *Scire Facias* issueth forth against him to pay it; and if he cannot, or will not otherwise discharge and pay the Money, the Party shall have a *Fieri Facias*, or an *Elegit* against the Sheriff of his proper Goods, &c. 9 E. 4. 50. *Scire Facias* 2.

A *Sci. Fa.* issued out against an old Sheriff after a new elected, for Money levied by him, &c. 9 E. 4. 50. *Mich. Sci. Fa.* 2.

Mich. 10. Jac. Upon a Motion at the Bar, it was resolved, that an Obligation to the Sheriff upon a *Fieri Facias* for the Payment of the Money in Court, was not void by the Statute of 23 H. 6. cap. 10. For the first Branch of that Statute is, that he shall let to Bail by Writ or Bill, &c, which he could not do before, as appears 19 H. 6. 43. The second shews the Form of the Bond, &c. The third contains a Penalty, that if the Sheriff take an Obligation in any other Form, &c.

Bond taken by the Sheriff not within the Stat. of 23 H. 6. c. 10. 19 H. 6. 43. Co. 10. 99. b. 3. *Inst. Beauvais* than Case,

than is there prescribed, that it shall be void: So that upon Consideration of all the Branches together, and upon their Coherence and Dependence upon one another, it plainly appears, that the said Statute doth extend only to Obligations of such as are within their Guard and Custody, and not otherwise.

Where the Under-Sheriff justified the breaking of three Doors, &c. to do Execution, &c.

Trespass brought for breaking his House, and breaking three Doors, and breaking and carrying away three Locks of those Doors: The Defendant justifies the Entry into the House by Virtue of a *Fieri Facias* awarded against the Plaintiff, directed to the Sheriff; and he being Under-Sheriff, and the other Defendants his Bailiffs, two of the Defendants entered into the House, and the Door being open, took the Goods, and the Plaintiff shut the Doors upon the Bailiffs, and imprisoned them for two Hours; wherefore he broke open the Doors, and the Locks, to rescue his Bailiffs, *Qua est eadem transgressio*. And it was thereupon demurred; and all the Court held, that although a Sheriff cannot break open an House, being to take Execution by a *Fieri Facias*, yet when the Door is open, that he enters, and be disturbed in his Execution by the Parties who are within the House, he may break the House to rescue his Bailiffs, and to take Execution; so that it was adjudged for the Defendants. And in regard this restraining of the Execution, and detaining of the Bailiffs, was confessed by the Demurrer, an Attachment for the good Behaviour was awarded against the Plaintiff. *Cro. Part 2. fol. 555, 556.*

The Sheriff may sell a Lease for Years, &c. without taking Inquisition of them. *Co. 5. 90. 4. 74.*

If the Sheriff takes Leases for Years, or other Chattels real upon an Execution, he may sell and sell them without taking Inquest by a Jury of them, and the Sale will be good. *Co. 5. 90. 4. 74.* And no Return is required upon a *Fieri Facias*, if Execution be done; which is grounded upon four firm and solid Reasons. See *Co.* in his fifth Report in *Hoe's Case*.

Note, It was resolved by the Court, that if a *Fieri Facias* cometh to the Sheriff to levy Money upon the Goods of a Man, and the Sheriff by Writing recite, that he had a Term for Years which began 2 *M.* whereas in truth the Term began 3 *M.* and sell the same Term, the Sale is void; for that there is not any such Term: But if the Sheriff sell also all the Interest which the Party had in the Land, the Sale is good. 26 *Elix.* Sir G. Sydenham's Case adjudged. But in the principal Case, afterwards upon looking into the Record, it was found, that the Execution was not by *Fieri Facias*, but by *Elogium*, which ought to be made by Inquisition *per Sacramentum* 12. and not by the Sheriff: And because the Term was miscited in the Inquisition, and the Sheriff cannot sell any Term but that only which was appraised by the Jurors of the Inquest: For this Cause it was the Opinion of the whole Court, that the Sale of the Term in the principal Case was void, and Judgment given accordingly. *Hill. 39. E. in B. R. Co. Part 4. 74. Palmer's Case.*

1. Because

1. Because the levying of the Debt is lawful, and well done, and the Party Defendant cannot resist the Sheriff to levy the Money.

Four Reasons why no Return is required upon a *Fieri fac.*

2. The Effect of the Authority the Sheriff hath, by Force of the *Fieri Facias*, is executed.

3. The great Prejudice that the Defendant (whose Goods are sold by the Writ, and Process of Law for the Satisfaction of the Debt) should have, if the Sheriff's not returning of the Writ should cause a new Execution to be sued forth against him, and leave the Defendant to his Action against the Sheriff.

4. If the Sale of the Goods by Force of the Writ, shall be, for not returning the Writ, wrongfull, then the Sheriff will not find Buyers of the Defendant's Goods, by Force of any Writ of Execution; which would be very inconvenient, and great Delay of Executions, which are the Fruit and Life of every Suit; and where the Words of the Writ of *Fieri Facias* are, *Et quod habeat denarios*, &c. they are but Words of Command to the Sheriff to make Return: which if he do not, he shall be amerced, but the Execution shall stand in Force.

Levari Facias, what it is.

WE come to the seventh, which is a *Levari Facias*; and it is only to be levied upon the Profits of the Lands and Tenements, and upon the Goods of him that hath forfeited a Recognizance, &c. *Reg. Orig. fol. 298. b. 300. b.* but he cannot seise the Land, and deliver that to the Party by this Writ, *Plow. 441.* and this ought to be sued within the Year after the Day of the Payment to be made by the Recognizance, or after the Judgment; for after the Year, the Consuee or Plaintiff is now by the Statute of *Westm. 2. cap. 45.* to have a *Scire Facias*, whereby the Sheriff is commanded, that he give Knowledge to the Defendant, that he appear at a Day certain in the Chancery, there to shew what he can say, why he should not pay the Debt or Damages; and if he come not at the Day, or do come and can say nothing why Execution ought not to be done, then the Sheriff shall be commanded to do Execution. *Fitz. 266.*

Register Original. fol. 298. b. 300. b. Plow. 441.

Stat. West. 2. cap. 45.

And if the Sheriff upon this Writ return that he hath levied Part of the Sum, *viz.* sixteen Pounds Part thereof, which he hath delivered to the Party; now upon this Return, the

Fitz. 266. Part of the Sum levied a Scire Facias Le-

vari fac. may issue out for the Residue, *Fitz. 265. b.*

Party which ought to have the Money, may have a *Sicut alias Levari facias*, directed to the Sheriff to levy the Residue of the Sum. *Fitz. 265. b.*

Of Habere facias seisinam, and Habere facias possessionem.

There are other Writs of Execution, which are necessary to be treated of, *viz.*

Habere facias seisinam, and

Habere facias possessionem.

*Co. 6. 51.
F. N. B. 265.
West. 2.
cap. 18.*

Which Executions are for Recovery of Land in a real Action; as *Ca. Sa. Fi. Fa.* and *Elegit*, are for Recovery of Debt or Damages in a personal Action. *Co. 6. 51. F. N. B. 265. West. 2. cap. 18.*

*Habere fac.
seisinam,
what it is,
and where
it lies.*

And first of the *Habere facias seisinam*, which is a Judicial Writ, and lieth where one hath recovered certain Lands in the King's Court, directed to the Sheriff, commanding him to put him in actual Seisin of that Land; which is done by delivering a Bough of a Tree, or by a Clod of the same Land in the Name of Seisin, &c. And if the Recovery be of a House, then the Sheriff may put him in Seisin, by delivering unto him the Ring of a Door; or otherwise he may open the Door, saying to him, *Enter into the House, and take Seisin thereof by Vertue and Force of the Recovery.* *Perk. Sect. 206, 207, 208. F. N. B. 220.*

*Habere fac.
possessionem,
what it is,
and where
it lies.*

2. It is a Writ Judicial, and lieth where one was evicted from his Farm, and hath recovered it by *Ejectione firma*, or *quare ejecit infra terminum*: it is directed to the Sheriff, to command him to put the Plaintiff in actual Possession of the Term again. The Sheriff in executing both these two Writs may break the House, and deliver Seisin and Possession thereof to the Plaintiff. But he cannot justify the breaking a Man's House to execute a *Ca. Sa.* or *Fi. Fa.* But where the King is a Party, there the Sheriff may justify the breaking of the House to execute his Process, if they cannot be executed otherwise: Yet he must first request the opening of the Door, and withal signify the Cause of his coming. *F. N. B. 220, 221. Co. 5. 91. 6. 51. Dyer 278.*

*F. N. B.
220, &
221. Co. 5.
91. 6. 51.
Dyer 278.*

Some select CASES which have not been yet published in any Treatise of this Nature, &c. concerning Returns of Writs, where valid and good, and where insufficient.

THIS Word *Return* hath a triple Acceptation, First, as it is applied to the Case of a Replevin, and there it is called *Retorno Habendo*. Secondly, it is applied to the Days of Appearance in every Term. And, Thirdly, it is applied to the Sheriffs and Bailiffs, and it is that which we are determined to handle: And it is a Certificate made by the Sheriff or Bailiff to the Court from whence the Writ issued. They ought to be very diligent in making true, certain and perfect Returns, subscribing their Names to them, for if they make a false Return, the Party endamaged thereby may have an Action of the Case against him that made such Return. See *Co. 5. 9. 11. 40. and 4. 67.*

In *Mich. Term 8 Jac.* the Words of a Return were these, viz. *Virtute istius brevis tibi directi, cepi corpus E. M. infra nominati, cujus quidem corpus coram Dom. Reg. ad diem & locum infra content. paratum habeo, prout interius mihi precipitur.* And at the End of the Return was set *Respons. S. H.* which *S. H.* at the Time of the Return, was not then Officer to the Court, nor to the King, and so disabled to make a Return; and therefore the Return insufficient. The Writ was directed to the Sheriff, and so ought the Return to have been by the Sheriff, for none can make a Return of a Writ, but such a Person, who at the Time of the Return remained an Officer to the Court. If the old Sheriff be removed before the Day of the Return, the new Sheriff is to make the Return: And to this Purpose is the Book of *22 E. 4. fol. 33, 34.* in the Case of a Writ of Error to reverse a false Judgment given before the Mayor and Sheriffs in the Court at *Coventry*: and *Co. 3. fol. 72. Westbie's Case*; where it is resolved, that after the Election of a new Sheriff, and before Delivery over of the Prisoners to him, they do remain in the Custody of the old Sheriff; and

after the Delivery of them over to the new Sheriff, he at the Day of the Return, ought to return *Capi corpus*; but in this Case the Return by the new Sheriff before any Delivery over of the Prisoners to him by the old Sheriff, is no Return at all in Law. And the old Sheriff can now make no Return, he being no Officer at all to the Court, and ought to make his Answer unto the Kings Writ to him directed; and he doth not here return a *Capi corpus*, but only an Indorsement in this Manner, setting his Hand also to the Return, with this Postscript, viz, *Istud breve, prout superius indorsatur, ego modo Vicecomes recepi de A. B. super Vicecom. Com. mei, in statu ab officio suo*; and this upon the Matter is no Return at all. Here the new Sheriff hath made a Return, but the same is not good, being but Parcel of that which he ought to have returned. For as to the other two, his Return is, *They are not to be found within my Bailiwick*; This Return is not good; for he ought to have said, that *those two, nor either of them, were to be found*. And it is said that the old Sheriff put his Hand to the Writ; he was at that Time out of his Office, and so he was no Officer of the Court; and so it is in Effect, as if he had not put his Hand at all to the Return; and so the Return being as no Return in Law, is merely void.

An Indorsement of Writs as was received by the new Sheriff from the old Sheriff.

Surplusage no Hurt to the Return of a Writ. *Winch, Rep. f. 27.*

Upon an *Elegit* the Sheriff returned that to be executed, and the Extent of the Church of St. *Andrews, alias St. Eder*; and it was prayed, that the Sheriff might amend it, and make it *Andrews* only, for that was the true Name; and the Court said that the *alias dictus* is Surplusage, and will not hurt the Return of the Writ. *Winch, Rep. fol. 37.*

A Proclamation upon Exigent returned by a Sheriff

out of Office, void. A Writ of Proclamation upon the Exigent was returned by the Sheriff out of Office at the Time; upon which the Outlawry was adjudged void. *Stat. 6. H. 8. Dyer 103.*

Rescous upon a *Latitat*, no good Return.

To return Rescous upon a *Latitat* is no good Return; for the Sheriff might have had a *Posse Comitatus*, as well for the serving the same Process as an Execution. *10 H. 6. 26. 33 H. 6. 1. 13 E. 4. 3. R. N. B. 102. Dyer 162.*

Return by one Sheriff where there are two, no good Return.

If a Writ be directed to a Place where there are two Sheriffs, as *London, York, &c.* and one of them doth return the Writ, it is insufficient: For though one (according to Custom) doth execute it, yet it must be returned in both their Names. *21 Ass. 20. Br. Officer 22.*

Capi corp. returned upon a *Ca. sa.*

If the Sheriff upon a *Capias ad satisfaciendum* returneth a *Capi corpus*, and hath not the Body at the Day, &c. he is charge-

able upon a *Ca. sa.* and hath not the Body at the Day, an Escape, &c. *Br. Rep. 107.*

able for an Escape. Or if upon a *Fieri Facias* he returneth a *Fieri feci*, and hath not the Money at the Day, &c. he is chargeable with the Money. *Br. Ret. 107.* Yet in all Writs of Execution, (except an *Elegit*) as upon a *Ca. sa. Habere facias seisinam vel possessionem, Fieri fac. Liberate*, &c. if the Execution be duly done, although the Writ never be returned or filed, it much matters not, if the Plaintiff have his Demand; For then he hath no Cause of further Proceedings in it. But in case of an *Elegit*, because the Extent is to be made by an Inquest, and not by the Sheriff alone, that ought to be returned, otherwise it is invalid. *Co. 4. 67. and 5. 90.* But where no Inquest is to be taken, but only Land to be delivered, or Seisin had, or Goods to be sold, which are but Masters in fact, these are sufficient, although the Writ be not returned. *Co. 4. 67. a.*

In all Writs of Execution (except an *Elegit*) no Return is required. But an *Elegit* must be returned. *Co. 4. 67. 5. 90.*

It is no good Return for the Sheriff to say, that the Party will not pay his Fees; *ergo*, he did not execute the Writ. *34 H. 6. Br. Ret. 10.*

To say that the Party will not pay his Fees, no Return.

All Sheriffs and Bailiffs who have Return of Writs, ought to set both their Names of Baptism and Surnames to their Returns. *Plow. 63. a.* so that the Court may know of whom they received such Returns, if Necessity require: And this is by Force of the Statute of 12 E. 2. cap. 5. Yet by the Statute of 13 E. 1. cap. 13. imperfect or insufficient Returns of Sheriffs are corrigible.

Upon a Replevin, if the Sheriff returns, *I have commanded the Bailiff of the Liberty, &c. who will make no Deliverance, &c.* these are no good Returns; for the Sheriff himself ought to have entred the Franchise, and to have made Deliverance of the Cattle, &c. *Fitz. 68. f.*

For the Sheriff to say that his Bailiff will make no Deliverance, no good Return. He shall not be charged for insufficient Returns by Bailiffs of Liberties.

He shall be amerced for the Default of his Under-Sheriff, County-Clerk, or Bailiff. *38 Aff. p. 13. Br. 77. 1 R. 3 rap. 4.* But by the Statute of 27 H. 8. c. 24. Amerciaments for insufficient Returns of Writs made by Bailiffs of Liberties, shall be imposed upon such Bailiffs, and not upon the Sheriffs.

T. v. brought an Action of the Case against *R. G.* Clerk in the King's Bench, for calling him perjured Fellow, and had Judgment by *Nihil dicit*; and thereupon had a Writ of Enquiry of Damages to the Sheriff of Norfolk thus: *Præceptum est vis. quod per sacramentum duodecim proborum & legalium hominum de balliva sua diligenter inquirat, que damna, &c.* Whereupon the Sheriff returned, *Quod mandavit J. G. ballivo libertatis Rad. Hare mil. Hundredi de Blackclose, cui execut. præd. brev. totaliter restat fienda, & quod alibi infra Com. præd. per se fieri non potuit.*

13 Jac. & 7. 12 Jac. Ret. 252.

Qui quidem Ballivus sic sibi respondit. And so sets down an Inquisition before the Bailiff, and 40 l. Damages. Hereupon a Writ of Error was brought in the Exchequer-Chamber, and agreed by all the Judges, that the Return was insufficient, for it was apparently untrue, and against Law, because the Writ was directed to the Sheriff himself to be executed in any Part of his Shire, and no *Venue* contained in this Inquest of Office, as there is in other Writs which intitles the Bailiffs of Liberties: But yet the Court would not reverse the Judgment, because there are divers of the like in the King's Bench and Common Pleas, especially in *Suffolk* and *Norfolk* in later Times. *Hob. Rep. fol. 83. Virely versus Gunston.*

Every Return must exactly answer the Writ.

Co. 3. 15.

Sometimes the Omission of Words make the Return invalid.

19 H. 6. *Fitz. Ret.* 14. 3. H. 7. 11. a. Br. Ret. 88.

34 H. 6. 49 Br. Ret. 14. Co. 8. 127, 128.

Every Return ought to answer the Writ (*ad punctum*) and therefore where the Writ was, *That you make known to the Heirs of the Lands and Tenements which were of A. &c.* And the Sheriff returned, *That he made known to B. Esq, Son and Heir of the said A. &c.* which was not good, and assigned for Error, &c. because he did not return him Heir of any Lands or Tenements, as the Writ required; for his Writ was not to summon the Heir of the said A. but the Heir of the Lands and Tenements of the said A. Co. 3. 15.

Usually the Omission of Words make the Return invalid; as where the Return was, *The Residue of this Writ appears in a certain Schedule, &c.* for, *the Residue of the Execution of the Writ*, this is insufficient and vicious. 19 H. 6. *Fitz. Ret.* 14. For by 3 H. 7. 11. a. *Bro. Ret.* 88. the Return of the Sheriff ought to be certain to every Intent, and he is obliged to take Knowledge of the Law in making his Return: And therefore in a *Scire facias* to L. B. Master of the Free Grammar-School of *Skippon, &c.* and to the Scholars of the same, &c. he returned, *That he made known to the Master, &c.* And did not say, *That he made known to L. B. Master, &c.* and likewise he omitted Scholars; which Return was insufficient and void. See Co. 8. 127, 128.

10 E. 4. 15. The Sheriff upon a *Capias* returned, that he arrested the Defendant at S. and would have carried him to the Gaol, and that A. B. rescued him; which Return was holden invalid, because he did not shew at what Place A. B. made the Rescue; for it shall not be intended the Place where the Arrest was.

Note, It was holden by the Court, that the Return of the Sheriff of a Rescous made to his Bailly Errant by these Words, viz. *Virtute istius brevis, &c. mandavi Ballivo meo itinercanti, &c. qui mihi sic respondit, quod arrestavit, &c.* and shewed the certain Day, Year and Place, &c. and that Rescous was made, was no good Return, because the Arrest is the proper Arrest of the Sheriff himself, and no Credit to be given to the Saying or Answer of the Bailiff Errant; otherwise it is of a Bailiff of a Fran.

Franchise; and in the principal Case it was holden, that if it be upon a *Capias ad satisfaciendum*, or upon a *Capias Ulagatum* after Judgment, the Sheriff himself shall be charged with an Escape, except it be by the King's Enemies. *Trin. 7 El. Dyer 241.* See more largely in the *French* above.

The Sheriff of a County made a Warrant *Bailivis suis*, to arrest the Body of such a Man, and the Bailiffs of the Liberty returned a Rescous; Exception was taken to it, because it was *Bailivis suis*, and the Return was made by those who were not his Bailiffs; but it was adjudged that the Return was good, for that the Liberty might be within his Bailiwick. *Pasch. 15 Car. in B. R. Mart. h 25.*

Where Return of Rescous made by Rebels, Enemies, &c.
7 *El. Dyer 241.* 33 *H. 6. 1.*

By the Opinion of *Jennie*, 3 *E. 4.* If a Writ be returned thus, *The Answer of the Sheriff of C.* and sheweth not the Sheriff's Name, it is no good Return. 9 *E. 4. 19. Br. 54.* And by 11 *H. 7. 10. a. b.* the Name of the County ought to be entered in the Margin, or over the Head of the Return.

In a *Scire fac.* the Sheriff returneth, *I have made known to A. B. in Manner and Form as this Writ exacts and requires*; and said not, *to the within named A. B. &c.* and yet this was holden (*per curiam*) to be good: For note, these Words, *as the Writ exacteth*, &c. do amount to *the within named*, or *the within mentioned*, or *written*. See 2 *H. 4. 13.* and 3 *H. 4. 9. Br. 28. Fitz. 44.*

Habere facias seisinam upon a Grant and Render, at the *Pluries* the Sheriff did return *Mandavi ballivo*, who did nothing because the Parties to the Fine had nothing, and the Writ of Covenant was not sued in the Liberty, nor came to him to be executed, upon which a *Non omittas* was awarded. 8 *E. 3. 12.* Upon the like Writ the Sheriff returned, that he could do nothing by reason of the Resistance of *A. B.* and others; and he was amerced twenty Marks, because he did not take *Posse Comitatus*, and an *Alias* awarded, and also a Writ to attach *A. B.* who was taken, and pleaded not guilty, and prayed a Writ against the Sheriff to answer his false Return. *Hill. 19 E. 2. Execur. 147.*

Waste was assigned in *W.* the Return must not be, *That he came unto W.* but *that he came to the Place wasted.* 27 *H. 8. Br. 2.*

No good Return where the Sheriff's Name is wanting.
9 *E. 4. 19.*
Br. 54. 11.
H. 7. 10.
a. b.

8 *E. 3. 12.*
Hill. 19. E.
2. *Exec. 147.*

What Return upon Waste good, and what is not.

The Sheriff returned, *That by Virtue of a Precept*, &c. he took the Body of *A. B. &c.* and Exception was taken, because the Return was not, *by Virtue of a Writ*, &c. yet it was holden to be good.

Return of a Precept for Writ.
be good.

be a sufficient Return; for the Sheriff may take one in *Westminster-Hall* by the Mandate of the Justices without any Writ.

No good
Return.
Fitz. 19.

The Sheriff returned, *I have not found the Party, &c.* for, *he is not to be found*; and the Party thereupon outlawed, assigned this for Error, and not to be amended. *Fitz. 19.*

A Return
by the Sher-
riff in the
third Per-
son, no
good Re-
turn.
Return
amended.

The Sheriff returned, *That he hath commanded the Bailiff of Slainedcliffe, in the third Person*; for, *I have commanded the Bailiff, &c.* in the first Person, and was amerced for it. *21 Ass. 17.*

Habeas corpus was returned, *Barthol. miles vic.* and *Michael*, which was the Sheriff's Surname omitted, and it was amended by Rule. *Hob. Rep. Kent versus Hall, fol. 113.*

False Im-
prisonment
lies against
the Sheriff
for not re-
turning a
Capias in
Process, &c.
But other-
wise in a
Ca. sa. &c.
Co. 5. 90.

If a Sheriff do not return a *Capias* in Process, the Arrest is tortious, and an Action of False Imprisonment lieth against him by him that was arrested; and likewise the Plaintiff shall have an Action against him. *Lib. 18 E. 4. 9. Br. Trespass. 339. Br. False Imprisonment, 5. 7. & 12.* But if a *Capias ad satisfas.* be not returned, it is sufficient, if the Execution be duly executed, and the Plaintiff satisfied; yet if he levy the Money or Debt, but neither returneth the Writ, nor payeth the Money to the Plaintiff, he is chargeable to the Plaintiff in an Action of Account, &c. and to the Defendant in an Action of Trespass. *Co. 5. 90.* and the Plaintiff may have his Execution renewed against the Defendant, and the Defendant is left to his Action against the Sheriff.

Where a Man hath Liberty to return Writs, (as in the Honour of *Pontefract* in *Yorkshire*, &c.) and to execute them, &c. if there the Sheriff, or his Officer, shall enter the Liberty, and execute any Process there, the Lord of the Liberty shall have an Action of the Case against him. *Fitz. Nat. Br. 95. b.*

In a *Scire*
fac. &c.
the Sheriff
must re-
turn the
Names of
the Sum-
moners, &c.

In a *Scire fac.* to execute a Judgment or Fine, the Sheriff must return the Names of the Summoners. *3 H. 7. 8. Br. Ret. 86.*

Upon the Return of a Jury, he is to return Issues upon every Person impanelled, and returned by him. *Ibid.*

The Sheriff
may take
*Posse Comi-
tatus* upon
a Replevin.
A *Sci. fa.*
against a
Husband
and his
Wife, to say they are divorced, no good Return.

Upon a Replevin the Sheriff returned, that the Cattle were in such a strong Place, that he could not make Deliverance: For which Return he was amerced, because he might have taken *Posse Comitatus*, and so made Deliverance. *Br. 119.* or if he should return a Resistance, the like. *13 E. 3. 39.*

In a *Scire fac.* against the Husband and Wife, the Sheriff returneth that they are divorced, and therefore amerced; for

Persons that are divorced may have Garnishment. *Quere, & vide 1 H. 6. 2. Br. 63.*

Upon a *Fieri fac.* against Executors, the Sheriff returneth, that they had sold the Goods of the Party deceased before the Writ purchased, &c. for which he was amerced; for he should have taken other Goods of the Executors, to the Value thereof, &c. *14 H. 4. 12 Br. 41.*

A *Fi. fa.* against Executors, no good Return to say the Goods

were sold, before the Writ purchased.

Upon a *Fieri fac.* against Executors, the Sheriff returned *Nulla bona*, &c. and upon this Return an Entry was made in the Roll, because that *testatum est*, that the Executors had sold divers Goods of the Testator's, and converted the Money to their own Use; a Writ was awarded to the Sheriff, to enquire by the Oaths of good Men of his Bailiwick what Goods (which were the Testator's the Day of his Death) were wasted by the Executors; by Force of which Writ the Sheriff had an Inquisition, by which it was found, that divers Goods of the Testator's, to the Value of the Debt recovered, were wasted by the Executors: And this was returned in Court; upon which the Plaintiff sued a *Scire facias* against the Defendant, to shew Cause wherefore the Execution should not be awarded against the Defendant of his own proper Goods; and upon two *Nihilis* the Court awarded Execution. *Co. 5. 32.*

Nulla bona returned upon a *Fi. fa.* against Executors. An Enquiry of Walte, and found that divers Goods were wasted, upon which a *Sci. fac.* awarded, and upon two *Nihilis* returned, Execution awarded.

Execution of a Writ of Execution, as well at the Suit of a common Person, as at the King's Suit, is good without Return of the Writ: For if a Man be arrested upon a *Capias ad satisfaciendum*, the Execution is good, although the Sheriff do not return the Writ: And so in Writs of Execution, where the Sheriff only executes the same, as *Capias ad satisfaciendum*, *Habere fac. seisinam vel possessionem*, *Fieri fac. Liberate*, if the Execution be duly made, it is good; but if *Capias* in Process be not returned, the Arrest is not lawful; for there the Intent of the Writ is, to bring the Party to answer the Plaintiff; and in Case of an *Elegit*, for there the Extent is to be made by Inquest, and not by the Sheriff only; and the Writ ought to be returned, otherwise it is of no Effect. In this Case it was resolved, that when one hath a Power of Revocation, yet if he suffer any Thing to be lawfully executed, as touching that, he cannot make any Revocation: As if a Man make a Letter of Attorney to another to do any Thing, before Execution he may revoke it; but after Execution lawfully done, it cannot be revoked: If one to whom another is indebted be outlawed, and he that oweth the Money payeth it to the King, and the Outlawry is after reversed, yet the Creditor shall recover his Debt against the Party. If the Goods of an outlawed Person be sold by the Sheriff upon a *Capias Utlagatum*, and after the Outlawry is reversed by Error, the Defendant shall

shall have Restitution of his Goods; for the Sheriff, or Escheator, is not compellable to sell the Goods, but he may keep them to the Use of the King, agreeing to the Book, 20 *Eliz. Dyer* 363. But if a Sheriff by Virtue of a *Fieri fac.* sell the Goods, and after the Judgment be reversed by Error, the Defendant shall not have Restitution of the Goods, but the Value of them for which they were sold: And the Reason is, the Sheriff is compellable to levy the Debt of the Goods of the Defendant; and therefore great Reason that the Sale should stand. *Co. 5. Part 89. Hor's Case.*

Outlawry returned in London, where not good.

An Outlawry returned in London in these Words: *At the Hustings holden in Gulldhall in the City of London, (such a Day) A. B. exacted was, and appeared not:* This is no good Return; because there are two Hustings in London, the one of Common Pleas, the other is of Pleas of Land; and therefore in such Case the Return must be, *At the Hustings of the Common Pleas, &c.* otherwise it is invalid, for that the same may have double Intendment.

The County omitted in the Return of an Exigent.

An Exigent was returned, *At my County held at the Castle of Y. the first Time exacted was, &c.* And because the County was not set down, it was holden erroneous.

Upon Exigent returned, that the Party

erroneous. If the Sheriff return, that the Party hath rendred himself upon the Exigent, and hath not the Body, he shall be amerced, hath rendred himself, and not so, not good.

Capi corp. upon a Capi. fa. and not so, erroneous.

If the Sheriff return a *Capi corpus* upon a *Capias ad satisfaci.* and hath not the Body, he shall not only be amerced, but the Plaintiff may have his Action against the Sheriff for an Escape, for so he is concluded by his Return. *Br. Ret. 107.*

Process against the Husband and Wife,

If upon Process against the Husband and Wife, the Sheriff returns that he hath taken them, and the Husband appears at the Day, but not the Wife, the Sheriff shall be amerced, and the Wife appears not at the Day, not good.

Upon an Enquiry of Damages, Return of

Upon a Writ to enquire of Damages, the Sheriff returneth, that the Inquest or Jury, gave or found no Damages, the Sheriff shall not be amerced for this Default of the Jury; no Damages, no hurt to the Sheriff, and why? *Or.*

for the Sheriff is but amerced where he returneth the Writ falsely or insufficiently of himself, whereas here he returned it as the Jury had presented it. 44 E. 3. 3. Br. 20.

If the Sheriff in a Writ of Account or Debt, shall return upon one, *that he is not found, nor hath Lands, &c. by which he may be distrained, &c.* whereupon a *Capias* is awarded against him, and he thereupon taken, whereas he had sufficient Lands, or Goods or Chattels; then the Party may have his Action upon the Case against the Sheriff (directed to the Coroners) for such false Return.

Upon Account or Debt, where the Sheriff returns no Lands found, &c. and he had not good.

It is not good to return upon a Replevin, that there is no such Goods or Chattels. 5 H. 7. 27. Or in a Writ to deliver Goods upon a Detinue, it is insufficient to say, that there are no such Goods. Or upon an *Habere fac. Seisin.* that there is no such Lands. *ibid.*

To say upon a Replevin that there is no Goods, &c. not good. The like

in Detinue, &c. Or upon *Habere fac. Seisinam.*

A. and his Wife Demandants against I. S. in Dower of a Freehold in *Munden magna, Munden parva*; and D. the Sheriff returned, *Pleg. de proseguend. I. D. R. R.* and the Names of the Summoners, *I. D. R. E.* and after the Summons made, and by the Space of fourteen Days, and more, before the Return of the Writ, at the most usual Door of the Church of *Munden magna*, where Part of the Tenements lay, upon the 27th of *October*, being the Lord's-day, immediately after Service ended in that Church, he publicly proclaimed *all and singular Things contained in that Writ*, to be proclaimed according to the Form of the Statute in that Behalf made and provided. Exception was taken to the Return, because that Proclamation was not made at the Doors of the Churches where the Land lay; but it was sufficient to make Proclamation at any of the Churches, by the Opinion of the Court: But because he said, he had caused to be proclaimed *all and singular in the Writ contained*; it was holden, that the Return was insufficient, because he did not express what. *Hill. 13 Jac. C. B. Allen and Walter's Case. Brownl. Part 1. 127.*

Upon an *Habere facias Seisinam*, in a Writ of Dower of the third Part, the Sheriff returned, that he offered to the Demandants the Seisin of the third Part of the Tenements aforesaid, and shewed to the Parties what made the third Part by Meets and Bounds in certain, according to the Tenor of the Writ; and they refused to receive them of him. It was the Opinion of the Justices, that the Entry of the Demandants was now lawful; and although Exception was taken to the Return,

Habere fac. Seisin. in Dower. Return.

Return, that it was incertain, and not good for Repugnancy, yet upon the Return being read and viewed, was allowed to be good; and the Court refused to award an *Habere facias Seisinam de novo*; for that they said would be a new Precedent, the like of which was not seen. *Mich. 11 Eliz. Dyer 278.*

Upon an *Extendi facias*, upon a Statute-Staple out of the Chancery, the Sheriff extended the Lands of the Defendant, and he prized the Goods, and seized them into the King's Hand, according to the Writ, but did not deliver them. Afterwards, a Writ of Prerogative came out of the Exchequer, commanding the Sheriff to levy 100 *l.* which the Defendant owed the Queen upon his Goods; and if he had not sufficient Goods, then to extend the Lands: which Writ was delivered to the Sheriff after the Day of the Return of the first Writ; but the first Writ was not returned, and the Sheriff returned the whole Matter aforesaid into the Exchequer: And the Sheriff was amerced for making such special Return, and was forced to execute the Writ of Prerogative; for it was holden by the Court, that until a *Liberate*, no Property was in the Conusee: But it was said, that the Goods being seized into the Hands of the King for the Use of the Party, they were privileged from all other Executions, but that of the King only. *Mich. 3 E. 6. Dyer 67. Stringfellow's Case.*

Note, It was resolved and adjudged, that when Judgment is given against Executors, and upon the *Fieri fac.* the Sheriff returns *nulla bona*, that the Plaintiff may have a Special Writ of *Fieri fac. scil.* That the Sheriff levy the Debt of the Goods of the Deceased; *Et si sibi constare poterit* that the Executors have wasted the Goods, then of their own Goods, because that in such a Case, if the Sheriff make a false Return, the Party may have his Remedy by an Action upon the Case. *Co. Part 5. 39. Pettifer's Case.*

Matthew Herbert acknowledged a Recognizance to the King of 3000 *l.* and died; after his Death, a *Scire fac.* issued forth against the Executors *Testamenti & ultima voluntate prad. Matthæi & hered. terrarum & tenementorum que sua fuerant*; and at the Day the Sheriff returned, that he had not Executors; but *Scire feci Willielmo Herbert Militi & hered. dict. Matthæi quod sit, &c.* William made Default, and Judgment upon that Default was given for the King, *quod recuperet versum dict. Will. Herbert, &c.* And thereupon Error was brought, and three Errors assigned. 1. That the *Scire fac.* was *hæred. terrarum & tenementorum*; which was improper, and against Law: always one is said Heir to his Ancestor, and not to the Land; and it cannot be said that he is *filius*, or *coasanguineus*, & *heres Mathei de D.* 2. Admitting the Writ good, then forasmuch as the Writ requireth, *Quod Scire facias hæred. terrarum & tenementorum, &c.* And the Return of the Sheriff, *quod Willielmo Herbert Militi fil. & hæred. prad. Matthæi*, is not good,

because he doth not return him Heir of any Lands or Tenements; for his Warrant is not to summon the Heir of the said *Matthew*, but the Heir of the Lands and Tenements of the said *Matthew*, and each Return ought to answer the Point of the Writ. 3. Admitting the Writ and the Return good, yet the Judgment was not good, because it was general, where it ought to have been special, for by such Judgment his own Lands should be charged: But these Points were not resolved by the Court. *Co. 3 Part, 15. Sir William Herbert's Case.*

If the Sheriff return upon any Perion, I have taken the Body of, &c. or he hath rendred himself, &c. the Sheriff shall be charged to have the Bodies of the said Persons at the Day of the Returns, or the Writ of Precept, *Et. 23 H. 6. cap. 10.* And so was the pristine Common Law of this Nation.

If the Sheriff return *Cepi corp.* he shall be chargeable with the

Body at the Day of the Return.

Return of Writs.

Infra nominat. A. B. non est invent. in balliva mea.

R. S. Ar. Vic.

The Return of a *Non est inventus.*

Virtute hujus brevis cepi corpus infra nominat. A. B. cujus corpus coram Justic. infra mentionat. ad diem & locum infra content. parat. habeo, prout interius mihi precipitur.

R. S. Ar. Vic.

The Return of a *Cepi corpus* in the Common Pleas.

Infra nominat. A. B. C. D. & E. F. non sunt invent. in balliva mea nec eorum aliquis est invent. in eadem.

R. S. A. Vic.

Virtute hujus brevis cepi corpus infra nominat. A. B. cujus corp. coram Dom. Rege ad diem & locum infra content. parat. habeo, &c. prout interius mihi precipitur.

R. S. Ar. Vic.

The Return of a *cepi corpus* in the King's Bench.

Virtute hujus brev. cepi corp. infra nominat. A. B. cujus corp. cor. Justic. infra mentionat. ad diem & locum infra mentionat. parat. habeo, prout interius mihi precipitur: & ulterius certifico eisd. Justic. quod ceter. defend. non sunt invent. in balliva mea.

R. S. Ar. Vic.

The Return of a *Cepi corpus* and *Non est inventus.*

Virtute

The Re-
turn of a
Cepi corpus
& languid-
us in pri-
sona.

*Virtute istius brevis cepi corp. infra nominat. A. B. cujus corp. adeo languid. debile & infirmum in prisca sub custodia mea remanet, quod ob met. mort. ejusd. A. B. corpus ejus coram Justic. infra mentio-
nat. ad diem & locum interius content. habere non possum, prout per
hoc breve mihi precipitur.*

R. S. Ar. Vic.

The Re-
turn of a
Mandavi
ballivo li-
bertatis,
where the
Bailiff
maketh no

*Pro executione hujus brevis mihi directi. faciend. mandavi ballivo libertatis Hundred. de B. in Com. meo, qui plenam habet execution. omnium brevium Warrant. mandat. & preceptor. exequend. infra li-
bertat. præd. & return. eor. infra quam libertat. executio hujus brevis totaliter restat faciend. qui quid. ballivus, scilicet, J. W. Miles (if
there be no Return of the Sheriff's Warrant, or an insufficient
Return made, then thus, scil.) nullum mihi dedit respons.*

Return of the Sheriff's Warrant, or where he makes an insufficient Return.

And also
where he
returneth
to the She-
riff he hath
taken the
Body; and
the like, in case the Bailiff returneth a languidus in prisona, or as he shall certifie
the Sheriff by his Return.

*But if the Bailiff of the Liberty return, that he hath taken the Body of C. D. then thus, scil. qui mihi respondit quod cepit corpus infra nominat. C. D. cujus corpus cor. Justic. interius mentionat. ad diem & locum infra content. parat. habet, prout per hoc breve
precipitur.*

R. S. Ar. Vic.

The Re-
turn of a
Scire fac.
where a
Scire fac.
is returned.

*Virtute hujus brevis mihi directi, per T. G. & I. H. probos & legales homines ballivæ meæ scire feci infra nominat. A. B. quod sit co-
ram Justic. interius mentionat. ad diem & locum infra content. ad
ostend. &c. prout interius mihi precipitur.*

R. S. Ar. Vic.

The Re-
turn of a
Nihil to a
Scire fac.

*Infra nominat. A. B. nihil habet in ballivæ meæ per quod ei scire
facere possum, neque est invent. in ead.*

R. S. Ar. Vic.

Return
Scire fac.
for one,
and Nihil
for the
other.

*Virtute hujus brevis mihi directi, per T. G. & I. H. probos & le-
gales homines de ballivæ meæ, scire feci infra nominat. A. B. quod sit
coram Justic. infra mentionat. ad diem & locum interius content. ad
ostend. &c. prout interius mihi precipitur: & ulterius certifico eisdem
Justic. quod aliter defend. nihil habet in ballivæ meæ per quod ei scire
facere possum. neque est inventus in eadem.*

R. S. Ar. Vic.

The Re-
turn of an
Attach-
ment and
Proclam.
in Chan-
cery.

*Infra. nominat. A. B. non est invent. in ballivæ meæ in omnibus locis
in ballivæ meæ, tam infra libertates, quam extra, publice proclamari
feci quod infra nominat. A. B. personalit. compareat coram Dom. Rege
in Cancellar. sua infrascript. ad diem & locum infra content. ad re-
spondend.*

Spondend. Dom. Regi de quodam contemptu, & ulterius ad faciend. & recipiend. quod eid. Cur. in hac parte videtur expediens, prout per hoc breve mihi precipitur.

R. S. Ar. Vic.

Infra nominat. A. B. nihil habet in balliva mea per quod attachiari potest.

A Nihil returned of a Ven. fac. upon an Indictment, Presentment or Information.

R. S. Ar. Vic.

Infra nominat. A. B. attach. est per pleg. Johan. Doe, & Rich. Roe.

A Summons returned of the like.

R. S. Ar. Vic.

Manu capt. infra nominat. A. B.

Johannes Doe,
&
Richardus Roe.
Exit. ——— 10 s.

The Return of a Distringas nuper Vic. or balliv.

R. S. Ar. Vic.

Executio istius brevis patet in quadam panell. huic brevi annex.

The Return of a Ven. fac. iur.

R. S. Ar. Vic.

Nomina Jurat. inter A. B. quer. & C. D. def. de placito transgr. E. F. de G. Gen. H. I. de eadem. K. L. de M.

The Panel.

And so to the Number of 24.

Quilibet Jurator. pred. per se separatim attachiat. est

per pleg. { Johannem Doe, & Richardum Roe,

R. S. Ar. Vic.

Executio istius brevis patet in quadam panell. huic brevi annex.

The Return of a Distringas or a Hab. corp. iur.

R. S. Ar. Vic.

Nomina Jurat. inter A. B. quer. & C. D. def. de placito transgr. E. E. de G. Gen. A. I. de eadem. K. L. de M.

And so to the Number of 24.

Quilibet jurat, per se separatim attachiat, est

per pleg. } Johannem Doe,
 &
 Richardum Roe,

Exit. eorum cujuslibet x s.

R. S. Ar. Vic.

The Return of an
 Writ where one
 bringeth
 a Sup. one
 rendereth
 himself, the
 other ap-
 peareth
 not.

Ad Com. meum N. tent. apud L. in dicto Com. octavo die Jan. anno Regni Dom. Regis infrascript. xiv. infra nominat. A. B. C. D. & E. F. primo exacti fuer. & non comparuer. nec aliquis eor. comparuit ; & ad Com. meum ibid. tent. primo die Februarii, anno xiv Regis pred. secundo exacti fuer. & non comparuer. nec aliquis eor. comparuit ; & ad Com. meum ibid. tent. primo die Martii anno supradicto tertio exacti fuer. & non comparuer. nec aliquis eor. comparuit ; & ad Com. meum ibid. tent. secundo die Aprilis anno ult. pred. quarto exacti fuer. & non comparuer. nec aliquis eor. comparuit ; & ad Com. meum ibid. tent. primo die Martii anno xiv ult. pred. quinto exacti fuer. pred. A. B. protulit mihi breve Dom. Regis Supersed. & est buic brevi annex. adeo versus eund. A. B. ulterius procedere non potui : & pred. C. D. se reddit in curiam meam, cuius corp. coram Justic. infrascript. ad diem & locum infra content. parat. habeo, prout interius mihi precipitur ; & pred. E. F. non comparuit : ideo per Judic. I. K. & L. M. Gen. Coron. Dom. Regis Com. pred. pred. E. F. utlag. est.

R. S. Ar. Vic.

The Return of a Proclamation.

Ad Com. meum N. tent. apud L. in Com. N. primo die Februarii, anno Regni Dom. Regis infrascript. xiv. & ad General. Session. pacis tent. apud G. in Com. pred. xx die Aprilis anno supradicto. & maxime usuale ostium Ecclesie Parochial. de B. infrascript. super dictam Dominicam scilicet, x diem Aprilis anno xiv Regis pred. publice proclamavi feci, prout interius mihi precipitur.

R. S. Ar. Vic.

Ad Com. meum tent. apud Castrum Ebor. in Com. Ebor. die Mercurii scilicet x die M. anno infrascript. primis proclamavi feci. Et ad maxime usuale ostium Ecclesie Parochialis ubi sunt legales descend. infra nominat. inhabitant. super die Dominico scilicet quinto die Jan. ann. supradicti. in eadem Curia publicum forensium in eodem secundum proclamavi feci Et ad Generalem Sessionem pacis tent. apud Beverley in Com. pred. tertiam proclamavi feci prout istud breve in se exigit.

J. A. Baronettus Vic.

Return of a Coronator's Writ.

Virtute istius brevis mihi directi. in pleno Com. meo tent. apud Castrum Ebor. ii die Aprilis anno, &c. in Com. pred. ex assensu ejusdem Com. loco infra nominat. T. W. eligit feci G. H. de R. in Com. pred. dicto generosum unum Coronatorem qui quidem Georgius eodem die in pleno

pleno Com. predicto prestis Sacramentum suum prout moris est secund.
formam & effectum hujus brevis ea facere & conservare quæ ad of-
ficiam Coronatoris pertinent faciend. & exequendum in Com. predicto
prout idem brevis in se exigit & requirit.

T. C. Ar. Vic.

Allocat. Mihi quatuor Com. ad quos infra nominat. A. B. C. D. &
E. F. quarto exact. fuer. & non comparuer. nunc ad Com. meum N.
tent. apud L. in dicto Com. N. pred. A. B. C. D. & E. F. quinto
exact. fuer. & non comparuer. ideo per judis. I. K. & L. M. Gen.
pred. Utlagat. sunt, & quilibet eorum Utlagat. est.

The Re-
turn of an
Allocat.

R. S. Ar. Vic.

Illud breve adeo tarde mihi deliberat. fuit, quod propt. tempor. brevitat. execution. inde facere non potui, prout interius mihi præci-
pitur.

Return of
a Tard.

R. S. Ar. Vic.

Et quia non fuit aliqua Curia Com. predicti, dum Vis. ejusdem
Com. remansit ideo ad ulteriorem prosecutionem istius brevis procedere
non potui.

When the
Sheriff is
removed;

A. B. Ar. Vic.

Infra nominat. A. B. capt. fuit per R. C. Mil. Baronet. super Vic.
Com. mei N. & non per me modo Vic. ejusdem Com.

The Re-
turn of
Hab. corp.
where the
Defendant
was taken
by a former
Sheriff.

R. S. Ar. Vic.

Virtute istius brevis mihi directi. posui coram Justic. infra specificat.
ad diem & locum interius content. loquel. quæ est in Com. meo per breve
dicti. Dom. Regis inter infra nominat. partes sub sigillis A. B. C. D.
E. F. & G. H. quatuor legales homines Com. mei qui Recordo illo in-
terfuer. prout patet in quadam Scheda huic brevi annex. & scire
feci infra nominat. I. K. quod ad tunc & ibid. parat. sit ad proseguend.
loquel. inde versus infra nominat. T. W. ac etiam habeo ibidem aliud
breve huic brevi & Scheda annex.

The Re-
turn of a
Pons.

I. G. Ar. Vic.

S. R. Ad Com. meum tent. apud L. in dicto Com. meo xi die anno
Regni dicti. Dom. Regis xiv.

The Sched-
ule.

R. I. R. queritur versus T. W. de placito debiti.

I. G. Ar. Vic.

Virtute istius brevis, per C. D. & E. G. probos & legales homi-
nes de balliva mea, scire feci infra nominat. L. S. I. L. &c. quod
fuit coram dicta Dom. Rege ad diem & locum infra content. ad ostend.
Sac. quare.

Return of
a Scire fac.
for the Re-
lease of
Prisoners.

Return of
a Nihil to
Scire fac.
against the
Heir and
Tertenants

*Infra nominat. G. S. nihil habet in balliva mea per quod ei scire
facere possum, neq. est invent. in eadem, neque sunt ulli tenentes, sive
ullus tenens aliquarum terrarum sive tenementorum qua fuer. infra no-
minat. W. super diem infrascript. judicii infra reddit, vel unquam po-
ssea in balliva mea, quibus scire facere potui, prout breve illud exigit.*

. G. Ar. Vic.

The Re-
turn of a
Summons
in Dower,

Pleg. de prosequend.

} Jo. Doe,
&
Rich. Roe.

Summon. infra nominat.
A. B.

} Anth. Sharp,
&
Rich. Sharp.

*Et ad maxime usual. ostium Ecclesie Parochial. de D. ubi infra
nominat. A. B. inhabitat, super diem Dominic. scilicet, quartum diem
Junii anno infrascript. immediate post celebration. divin. servic. in
eadem Ecclesia fuit, publice proclamari feci, secundum formam Sta-
tuti, &c.*

R. S. Ar. Vic.

The Re-
turn of a
Grand Cape
in Dower.

*Virtute istius brevis mibi direct. xxvi die Aprilis anno infrascript.
cepi in man. dict. Dom. Regis per vis. H. R. & T. R. propterea &
legalium hominum de balliva mea, tertiam partem messuag. terrarum
& tenementorum infra mentionat. cum pertin. prout interius preci-
pitur.*

Summon. infra nominat.

A. B.

} Jo. Den,
&
Rich. Fen.

R. S. Ar. Vic.

Pleg. de prosequend.

} Jo. Doe,
&
Rich. Roe.

The Re-
turn of a
Summons
upon an
Original
against an
Heir.

Summon. infra nominat. A. B.
fil. & bared. A. B.

} I. W.
&
E. W.

R. S. Ar. Vic.

The Re-
turn of Hab.
fac. posses.
& cap.
where
Judgment
is signed
with Costs.

*Virtute istius brevis deliberari feci eidem A. B. possessionem suam
termin. infra specificat. de messuag. terris & tenementis infra specific.
Ac etiam cepi corpus infra nominat. C. D. ejus corpus coram Justie.
infrascript. ad diem & locum interius content. parat. habeo, prout in-
terius precipitur.*

And

And where the Defendant is not found, then close thus:

Ut alierius certifico Justiciar. infra specificat. quod infra nominat.
C. D. non est invent. in balliva mea.

R. S. Ar. Vic.

Virtute istius brevis mihi direct. immediate post receptionem ejusdem
infra nominat. T. F. in plenam & pacificam possessionem & seisinam
Messuagii & terrarum infra specificat. cum pertinent. restitui & im-
posui prout interius, &c.

Return of
a Writ of
Restitution

A. S. Ar. Vic.

Virtute hujus brevis deliberavi infra nominat. I. G. Maneria,
Messuag. Parc. Bosc. ac omnia & singular. terr. & tenementa cum
pertin. infra mentionat. habend. sibi & assign. suis tanquam liberum
tenement. suum quousque plenar. satisfact. erit de debito infra mentio-
nat. cum damnis, misis & custag. rationabiliter sustent. prout per istud
breve precipitur. Et ulterius certifico dicto Dom. Regi, quod infra no-
minat. R. W. non est invent. in balliva mea.

The Re-
turn of a
Liberate
out of
Chancery.

R. S. Ar. Vic.

Virtute istius brevis mihi direct. in forma infrascript. in plena Cu-
riu recordari feci loquelam infra mencionat. & Recordum illud prout
patet in Schedul. huic brevi annex. coram Justiciar. infrascript. ad
diem & locum interius content. parat. habeo sub sigillo meo & sigillis
R. C. M. C. T. Y. & R. E. quatuor proborum & legalium hominum
de balliva mea, ex illis qui Recordo ill. interfuer. & partibus infra-
script. diem illum præfixi, quod tunc sint ibi parat. in loquela illa pro-
ut justum fuerit prosecutur. secundum exigent. istius brevis.

The Re-
turn of an
Accedens ad
Curiam.

R. S. Ar. Vic.

B. ff. Apud Cur. Hundred. de B. tent. apud G. xii die A. anno
Regni dict. Dom. Regis xlii in eodem Hundred. coram I. K. &

The Sche-
dule;

L. M. liberis sectatoribus ejusdem Hundredi.

B. ff. A. B. queritur versus C. D. de placito captionis & injuste
detentionis honor. & catallor.

R. S. Ar. Vic.

Virtute istius brevis mihi direct. in pleno Com. meo N. tent. apud
N. in Com. meo predicto xii die A. anno Regni dict. Dom. Regis
xiv, recordari feci loquel. int. partes infrascript. (unde infra fit men-
tio) qua loquel. patet in quadam schedula huic brevi annex. & record.
illud coram Justic. infra mentionat. ad diem & locum infra content.
paras. habeo, sub sigillo meo, & sigillis W. H. H. L. I. B. & T. C.
quatuor legalium liberorum tenentium ejusdem Com. ex illis qui recordo
ill. interfuer. & partibus infrascript. diem ill. præfixi, quod tunc
sint

The Re-
turn of a
Re. folo.

sint ibi parat. in loquel. illa prout justum fuerit prosecutur. prout istud breve in se exigit.

R. S. Ar. Vic.

The Sched-
dule.

N. ff. Ad Com. meum rent. apud I. infra Com. xii die Aprilis anno Regni dict. Dom. Regis xiv, coram I. G. H. K. liberis te-
nentibus ejusdem Com. int. al. sic continetur.

N. ff. E. I. queritur versus F. S. de placito captionis & injuste detentionis averior. suor.

R. S. Ar. Vic.

Return
averia
elongat.
and Capi
corpus for
Damages.

Ante advent. istius brev. equa infra mentionat. per infra nominat. G. H. elongata fuit ad loca mihi incognit. ita quod equam pred infra-
script. I. H. & H. return. non potui sicut interius mihi precipit. &
ulterius infra mentionat. Justiciar. certifico, quod virtute istius brevis
cepi corpus infra nominat. G. H. cujus corp. cor. dict. Justiciar. ad
diem & locum infra content. parat. habeo, prout interius mihi preci-
pitur.

R. S. Ar. Vic.

The Writ.

Executio istius brevis patet in quadam Scheda huic brevi annex.

R. S. Ar. Vic.

The Sched-
dule.

The Re-
turn of a
Rescous.

The Cu-
stody of
my said
Bailliff.

Virtute istius brevis mihi direct. & huic brevi annex. quodd. War-
rant. feci cuidam W. R. ballivo meo ad arrestand. & capiend. I. S.
in dicto brevi nominat. qui quidem ballivum meum virtute Warrant. mei
pred. xi die Februarii anno Regni Dom. Regis infra script. xiv, apud
B. in Com. meo arrestavit, & cepit corpus pred. I. S. prout per War-
rant. meum precipitur; & eodem Jahan. sic arrestat. caption. & in
custod. ut predicatur, sub. pred. arrestat. existent. quidam G. S. de B.
pred. simul cum pred. I. S. vi & armis, videlicet, gladiis, baculis & cul-
tellis in ipsum pred. W. R. ball. meum adtunc & ibidem insult. fecer.
& ipsum verberaver. vulneraver. & maletraxaver. ita quod de vita
ejus desperabatur; & pred. G. S. ipsum I. S. sic ut predicatur sub
pred. arrestat. existent. adtunc & ibidem extra custodiam meam ce-
pit & rescussit, & ad sui juris ad largum ire permisit; & idem I. S.
sicut pred. sub arrestat. existent. extra custod. meam similiter vi & ar-
mis adtunc & ibidem seipsum rescussit, contra pacem dict. Dom. Regis,
&c. Et postea idem I. S. non est invent. in balliva mea.

R. S. Ar. Vic.

Return
nulla bona
super fieri
fac.

Infra nominatus I. F. nulla habet terras seu catalla in balliva mea
unde debitum & damna infra script. seu aliquam inde parcellam fieri
facere possum

I. A. Ar. Vic.

Ante

Ante adventum istius brevis mihi direct. avaria inframentional. elongat. fuerunt per infranominat. T. R. ad loca mihi ignota, per quod averia illa infranominat. H. return. non potui. Et pred. T. non est invent. in balliva mea.

Return brevis de Return. Habend. quod averia elongat.

T. R. Ar. Vic.

Virtute istius brevis mihi direct. cepl in Withernam quatuor boves Et duas vacas de averiis infranominat. I. P. ad valent. averiorum ejusdem F. infrascript. prius capt. Et ea prefato F. deliberari feci salum Et secor. sibi custodiendi. quousque pred. F. averia sua per pred. I. Et N. prius capt. eidem I. Et N. return. voluit juxta formam Et effectum hujus brevis Et alterius Justic. infrascripte. certifico quod infranominat. N. nichil habet in balliva mea per quod attach. poss.

Return in Withernam.

Summon. inframentional.

{ E. Mitchell,
Johannes Den,
Richardus Fen.

Et quoad summon. pred. Thome Wikes Justiciariis infrascript. certifico quod idem Thomas Et ego Thomas Wikes jam unus Vicecom. Civitatis inframentional. sum unus Et idem Et non alius neque diversi ideo ego prefatus Thomas Et Hugo Hyde alter Vic. Civitatis pred. meipsum secundum exigentiam istius brevis sum. non possumus respond. present.

Morgan agant Mebel and Wikes. Anderf.

Rep. part 1. fol. 10.

Tho Wikes,

Et

Hugonis Hyde.

} Vic.

the Defendant Wikes was then one of the Sheriffs, and this upon judged a good Return.

Writ directed to the Sheriffs of the City of Gloucester, and Motion ad-

Pleg. de proseguendo

{ Johannes Den,

{ Richardus Fen.

Return of a Writ of false Judgment.

Virtute istius brevis mihi direct. ad Com. meum Ebor. tent. apud Castrum Ebor. in Com. Ebor. (die) anno infrascript. in pleno Com. meo recordari feci loquelam que fuit in eodem Com. sine brevi Domini Regis inter partes infrascript. in placito inframentional. Et recordum illud coram Justiciariis infrascript. ad diem Et locum infracentent. pot. habeo sub sigillo meo Et per A. B. &c. quatuor legatib. misit. ejusdem Com. ex illis qui recordo illo interfuer. prout istud breve in se exigit Et requirit que quidem loquela patet in quadam schedula hujus brevis annex. summon. &c.

The Return of a Devastavit.

EGO R. S. Vic. Com. infranom. Justiciar. infra mentionat. certifico quod infranominat. A. B. ante advent. istius brevis devastavit, & ad usum suum proprium convertit diversa bona & catalla, qua fuer. infranominat. F. G. tempore mortis sue; ad valene. debiti & dampnor. infra specificat. & qua ad man. & possession. ipsius A. B. Executor. ejusdem F. G. Administ. devenerunt, ita quod debitum & damna pred. vel aliquam inde parcelam de bonis & catallis pred. Testator. prefat. F. G. levare seu fieri facere non potui: & ulterius certifico Justiciar. pred. quod infranominat. A. B. nulla habet bona seu catalla de bonis & catallis suis propriis in balliva mea, unde damna pred. fieri facere possum.

R. S. Ar. Vic.

The Return of a
Nulla bona
& devastavit by
Inquisition.

Infranominat. A. B. nulla habet bona seu catalla qua fuer. infranominat. C. D. tempore mortis sue in manibus suis administrand. in balliva mea unde fieri facere possum debitum & damna inframentionat. vel aliquam inde parcelam, nec ulla bona seu catalla de bonis & catallis suis propriis in balliva mea, unde fieri facere possum damna predicta, vel aliquam inde parcelam: Et ulterius certifico Justiciar. infra specificat. quod per T. I. & E. R. probos & legales homines de balliva mea scire feci eidem A. B. quod sit coram Justiciar. predicta. ad diem & locum infracontent. ad ostendend. &c. prout interius mihi precipitur.

Resid. execution. istius brev. patet in quadam inquisitione huic brevi annex.

R. S. Ar. Vic.

Inquisitio indent. capt. apud A. in Com. pred. xxii die Januarii, anno Regni Dom. Regis infrascripti. xiv, coram me R. S. Vic. Com. pred. virtute brevis dicti. Dom. Regis mihi directi, & huic inquisition. annexi, per sacram. G. H. (and so to the Number of Twelve) proborum & legalium hominum de balliva mea, qui dicunt super sacram. suum, quod A. B. in pred. brevi nominat. devastavit & ad usum suum proprium convertit diversa bona & catalla qua fuer. infranominat. C. D. tempore mortis sue; ad valene. debiti & dampnor. in eodem brevi specificat. & qua ad man. ejusdem A. B. administrand. ven. In cujus rei testimonium, tam ego prefat. Vic. quam pred. Jurator. huic inquisition. indent. alternasim sigilla nostra apposuimus eisdem die & anno primo suprascripti.

R. S. Ar. Vic.

Virtute

Virtute hujus brev. mibi direct. fieri feci de bonis & catallis infra nominat. A. B. summam 80 l. quos quidem denar. coram Dom. Rege ad diem & locum infra mentionat. parat. habeo ad reddend. infranominat. C. D. pro debito & damnis suis infra specificat. prout per hoc breve mibi precipitur.

The Return of a Fieri fac.

R. S. Ar. Vic.

Virtute istius brev. fieri feci de bonis & catallis infra nominat. A. B. ad valenc. 8 l. 16 s. 4 d. quos quidem denar. coram Dom. Rege ad diem & locum infra mentionat. parat. habeo ad reddend. infra nominat. C. D. in parte debiti & damnor. suor. infra specificat. Et ulterius dicto Dom. Regi certifico, quod pred. C. D. nulla al. vel plura habet bona & catalla in balliva mea, unde ad presens fieri facere possum resid. debiti & damnor. pred. secund. exigenc. istius brevis.

The Return of a Fieri fac. where Part of the Debt is levied, and for the Residue a nulla bona.

R. S. Ar. Vic.

Virtute istius brevis mibi direct. de terris & catallis infra nominat. A. B. cepi, videlicet, un. messuag. cum pertin. in C. in Com. meo N. modo in tenur. cujusdam C. D. quod pred. A. B. tempore captionis ejusdem tenuit sibi & assign. suis pro quodam termino annuum qui nondum prateriit, ex dimissione, concessione, vel assignatione cujusdam R. B. ad valenc. 10 l. quae quidem terr. & catall. adhuc remanent inveniunt. in manibus meis, pro defectu emptorum ratione ejus eisdem denarios coram Justiciis, infra mentionat. ad diem & locum infra content. habere non possum, ad reddend. infra nominat. C. D. prout interius mibi precipitur.

Another Return of a Fieri fac.

R. S. Ar. Vic.

Justiciar. infra mentionat. certifico, quod post execution. istius brevis, & ante return. inde E. L. Mil. nuper Vic. Com. pred. obiit, & quod hoc breve prout superius indorsat. & return. mibi R. S. Ar. modo Vic. Com. pred. deliberat. fuit per G. T. deputatum Vic. pred. E. L. nuper Vic. Com. pred.

The Return of a Writ where the Sheriff dieth after Execution thereof, and

R. S. Ar. Vic.

so returned prout indorsat. by the present Sheriff.

Justiciar. infrascript. certifico, quod terr. & tenementa quae fuer. infra nominat. F. B. eodem die & anno infra mentionat. quo judicium debiti & compotum infra specificat. reddit. fuit, sunt & adhuc existunt in man. Dom. Regis in Cur. sua Wardorum & Liberation. ratione quod R. B. Gen. tenens terrar. & tenementor. pred. adhuc non prosecutus est liberation. terrar. pred. extra Cur. pred. Ideo ad execution. istius brevis procedere non possum, prout interius mibi precipitur.

The Return of an Elegit, where Lands are in the King's Hands.

R. S. Ar. Vic.

Return of
a Writ to
inquire of
Damages
in Trover.

Inquisitio indent. capt. apud Castrum Ebor. in Com. Ebor. xxv die N. anno Reg. Dom. Will. tertii Dei Gratia Anglia, Scotia, Francie & Hibernia Regis, Fidei Defensoris, &c. octavo coram S. S. Baronetto Vic. Com. pred. virtute brevis dicti Dom. Reg. eidem Vicecom. directi. & hanc inquisitioni annexat. per Sacramentum W. D. (and so to the Number of Twelve) proborum & legalium hominum de Com. pred. qui impanellat. jurat. & onerat. existent. ad inquirendum de hiis in eodem brevi mentionat. super sacramentum suum dicunt quod predictus M. W. sustinuit pro damnis suis occasione premiss. pred. in eodem brevi mentionat. ultra misas & custagias suas in ea parte apposit. ad 100 s. ac pro misis & custagiis suis ad sex denarios. In cujus rei Testimonium tam prefatus Vic. quam Jurator. pred. huius Inquisitioni sigilla sua apposuerunt die anno & loco supradictis.

R. S. Ar. Vic.

Inquisitio indent. capt. apud W. in Com. pred. sexto die Januarii anno Regni Dom. Regis nunc, &c. xiv coram me R. S. Ar. Vic. Com. pred. virtute brevis dicti Dom. Regis mihi directi. & huic inquisition. annex. per sacram. M. P. (and so to the Number of Twelve) proborum & legalium hominum de balliva mea qui jurati & onerati ad veritatem de & super premissis in dicto brevi content. dicunt super sacram. suum, quod H. S. in dicto brevi nominat. seisset. fuit. in dominico suo, ut de feodo. xiv die Junii anno, &c. in eodem brevi mentionat. de un. capital. messuag. cum pertin. & quinq; acr. terr. sex acr. prat. & octo acr. pastur. situat. & existent. in B. in Com. pred. elar. annual. valoris in omnibus exitibus ultra reprisas 40 s. Et pred. Jurator. ulter. dicunt super sacram. suum, quod pred. H. S. non habet al. vel plur. terr. sive ten. pred. xiv. die Junii pred. nec unquam postea, neq; ulla bona vel catalla tempore captionis hujus inquisition. in balliva mea ad notitiam Jurator. pred. medietatem omnium & singulor. quor. quidem messuag. & pred. quinq; acras terr. & sex acras prat. ego dicti Vic. die captionis hujus inquisitionis deliberari feci T. C. in dicto brevi etiam nominat. tenend. sibi pred. T. & assign. suis, tanquam liber. ten. suum, secundum formam Statuti in eo casu edit. & provisi, quousq; debit. & damna in eodem brevi nominat. plenar. satisfacti. erunt. In cujus rei testimonium, &c.

Otherwise, Quousq; dictus T. C. in dicto brevi etiam nominat. plenar. satisfacti. erit de debito & damnis in eodem brevi nominat. In cujus rei testimonium, &c.

R. S. A. Vic.

The Re-
turn of an
Extent in
the Exche-
quer, &c.

*Infra nominat. A. B. non est invent. in balliva mea Resid. execu-
tionis hujus brevis patet in quadam inquisition. indent. huius annexa.*

R. S. Ar. Vic.

Inqui-

Inquisitio indent. capt. apud K. in Com. pred. xxi die Octobris M. ff. anno Regni Dom. Regis nunc xiv, coram me R. S. Ar. Vic. ejusdem Com. N. virtute brevis dicti Dom. Car. secundi Dei gratia Anglie, Scotie, Francie & Hibernie Regis, Fidei Defens. &c. mihi directi. & huic inquisitioni, indent. annexi per sacram. H. S. (and so to the Number of Twelve at least) proborum & legalium hominum de balliva mea, qui Jurat. &c. dicunt super sacram. suam, quod R. T. in pred. brevi nominat. xx die Aprilis, anno Regni Regis pred. xiii, in eodem brevi nominat. super quem diem dicti R. T. devenit debitor dicto Dom. Regi infra mentionat. seisset. fuit in dominico suo ut de feodo de & in uno messuag. cum pertin. quinq; acr. terr. sex acr. prati, & octo acr. pastur. situat. jacen. & existen. in E. in Com. pred. modo in tenur. & occupatione I. G. vel assignat. suor. clari annual. valoris in omnibus exitibus ultra repriſas 10 l.

Omnia quæ quidem messuag. terr. & venementa cum pertin. ego prefat. Vic. eodem die caption. istius inquisit. cepi & seiscui in manus dicti Dom. Regis, prout per breve istud mihi precipitur.

Et iidem Jurator. super sacram. suam dicunt, quod pred. R. T. ad diem caption. hujus inquisitioni. in reversione seisset. est (cum acciderit post mortem C. D. vid.) in Dominico suo ut de Feodo, de uno messuagio cum pertin. 6. acr. terr. quinq; acr. prat. & xii acr. pastur. situat. jacen. & existen. in H. in dicto Com. N. & modo in tenur. & occupatione ejusdem C. Vid. Et quod pred. C. D. vid. nunc in vita existit adeo quod ad presens dicti messuag. terr. & premiff. in H. pred. sunt nullius valoris; sed post mortem ipsius C. D. vid. clari annual. valoris fuerint in omnibus exitibus ultra repriſa 8 l.

Reversio cuius quidem messuag. terr. & premiff. cum pertin. in H. pred. (cum acciderit) ego prefat. Vic. eodem die captionis hujus inquisitionis cepi & seiscui in manus dicti Domini Regis secundum exigent. istius brevis.

Et alterius Jurator. pred. super sacram. suam dicunt, quod supra nominat. R. T. tempore caption. hujus inquisitioni. fuit & modo possessionat. est de bonis & catallis separatim mentionat. & appreciat. in quadam Schedula huius inquisitioni. indent. annex. ut de bonis & catallis suis propriis; Et quod totus valor eorundem bonorum & catallorum est 40 s.

Quæ bona & catalla eodem die caption. hujus inquisitioni. ego prefat. Vic. similiter in man. dicti Dom. Regis seiscui.

Et iidem Jurator. ulterius dicunt super sacram. suam quod eodem die caption. hujus inquisitioni. R. I. de G. in Com. N. pred. Yeoman. indebitat. fuit supra nominat. R. T. in sum. integra viginti. librar. pro reddit. Ac etiam quod modo sunt in man. ejusd. R. I. diversæ bona

Return of Writs.

bona & catalla ejusdem R. T. scilicet, una longa tabula, &c. que bona & catalla conjunctim sunt valoris 40 s. Omnia que quidem reddidit. viginti. libr. & bona & catalla valoris ad 40 s. pred. ego prefat. Vis. eodem die captionis hujus inquisition. similiter in man. dict. Dom. Regis, ut in man. ejusdem R. I.

Et pred. Jurator. praterea dicunt super sacram. suam pred. quod infra nominat. R. T. nulla al. five plura habet terr. five tenementa ad pred. diem quo devenit debitor sic ut pradicitur, nec unquam postea, neque ulla alia five plura bona & catalla habet tempore captionis hujus inquisition. in balliva mea ad notitiam Jurator. pred. In cujus rei testimonium, &c.

R. S. Ar. Vic.

The Return of a Scire fac. against the Heir and Tertenants, where Notice is given.

Virtute istius brevis mihi directi. per W. G. & E. D. probos & legales homines de balliva mea, scire feci R. W. infra nominat. fil. & hered. R. W. infra nominat. defuncti. & W. R. & I. H. Gen. ter. tenen. diversorum terrar. & tenementorum in balliva mea, unde pred. W. R. pater tempore vite sue fuit seisit. in Dominico suo ut de Feodo in Crust. omnium animarum infra specificat. quod sint coram Justiciis. interius mentionat. ad diem & locum infra content. ad ostendend. &c. prout interius precipitur.

Pleg. de prosequend. { Johan. Doe,
&
Rich. Roe.

Summon. infra mentionat. { R. M.
H. W. { &
R. B.

Et ulterius virtute istius brevis tertio die Jan. anno infrascript. publice proclamari feci secundum formam Statuti & exigens. istius brevis.

R. S. Ar. Vic.

Return of Jurors.

If two sufficient Hundredors do appear, it is sufficient. 27 Eliz. cap. 6.

HE must return four Jurors where the Veue lieth, if there be so many within the Hundred, viz. within the Place where the Demand is made; yet by the Statute of 27 Eliz. cap. 6. upon the Trial of an Issue joined in any personal Action, if two sufficient Hundredors do appear, it is sufficient: He must return their Names, and a true Addition of

of their Dwelling-places, or some other Addition by which the Party may be known.

The Sheriff without a *Non omittas* may impanel a Jury of Men living in a Franchise. 22 R. 2. *Chall.* 177.

No Persons are to be returned above the Age of seventy Years, nor Persons of a languishing Sickness or Disease at the Time of their Summons; no Alien, Infant under the Age of fourteen, Clegymen, or Ministers. *Lamb.* 382. *Fitz.* 165. d. 166. a. d.

By the Statute of 4 & 5 W. & M. cap. 24. all Jury-men in England for the Assizes or Quarter-Sessions are to have ten Pounds per Annum of Freehold or Copyhold Lands or Tenements, and in Wales six Pounds per Annum.

Though the Current of the *Venire facias* be but to return *duodecim bonos & legales homines*, yet must he return twenty and four; if he return but three and twenty, and twelve appear and give their Verdict, this is Error. Co. 5. 36, 37.

He is to summon and return the Grand Jury to the Assizes, and the Juries for the Quarter-Sessions of the Peace, and is to array his Panel six Days (at the least) for the special Assizes, and before the Sessions of the Justices, so that View and Copies for the Panels may be had if they be required; which Copies must be indented by the Sheriff, and delivered to the Plaintiffs, Defendants or Tenants.

Upon an Indictment he ought to return none but *probos & legales homines*, viz. such as are not attain by Law, *Decies tantum*, Subornation of Perjury, Concealment, such as are not outlawed, abjured, condemned in a *Præmunire*, or attain of Treason, Felony, &c. 11 H. 2. c. 9.

None are to be returned above the Age of 70 Years, &c. 21 E. 1.

None to be returned, but such as have 10 l. per Ann.

24 Jurors must be returned, otherwise Error. Co. 5. 36, 37.

He must summon the Grand Juries to the Assizes, and Juries for the Quarter-Sessions, &c.

None must be returned upon an Indictment, &c. but *probi & legales homines*.

Return of Issues.

HE is to return good, sufficient and reasonable Issues, and upon such Persons as have sufficient Goods and Lands, according to the Statute of *Westm.* 2. cap. 39. and *E. 3. cap. 5.*

He must return good Issues.

Of Escapes, and what Damages do occur to the Sheriff by them.

The Sheriff must elect a honest Gaoler,

TH E Sheriff ought to be very cautious in electing a vigilant and honest Gaoler, and such a one as is able to give sufficient Security for his Indemnity and true Performance of his Office, and to answer all Escapes; for of all the Officers that appertain to the Sheriff, the Gaoler ought to be most circumspect, otherwise many Escapes would happen. And first, to define what an Escape is.

What an Escape is. For Felony, it is Felony in him that suffers the Escape, &c.

It is (here to be understood) where one that is arrested and imprisoned in the common Gaol of the County, and cometh to his Liberty before that he is delivered by the Award of any Justice, or by Order of Law. If the Imprisonment of him that escaped were for Felony, then that shall be Felony in him that did voluntarily (not otherwise) suffer the Escape; and if for Treason, then it shall be Treason in him; and if Trespasts, then Trespasts, &c.

If a Prisoner escape, yet upon fresh Suit, and taken, he shall be in Execution.

Although the Prisoner which escapes be out of the View, yet if fresh Suit be made, and he be reapprehended in execution, he shall be in Execution; otherwise at the turning of a Corner, or by an Entry of an House, or by any other such Means, the Prisoner may be out of View. *Co. 3. Rep. Ridgway's Case.*

Co. 3. Boyton's Case. Idem (sup. Litt. fol. 260. 13 E. 1. c. 11. 2 R. 2. c. 12. Plowd. 360. a.

The King cannot command without Writ, to free a Man, &c.

If the Sheriff doth assent, that one who is in Execution, and under their Custody, shall go out of the Gaol for a while, and then return, although that he return in the Time, yet this is an Escape; for the Sheriff ought to guard him *in salva & arcta custodia*; and the Statute of *Westm. 1. cap. 11. saith, Quod carceri mansipientur in firris.* So that the Sheriff may keep such as are in Execution in Irons and Resters, till they have satisfied their Creditors.

It is adjudged, if one be in Execution, no Commandment, although of the King himself, without Writ, is a sufficient Warrant to discharge the Gaoler, and so by the same Reason shall not discharge the Sheriff.

A. recovered upon a Pleine in London against *B.* and had him in Execution in *Ludgate.* *A.* died intestate; *B.* was permitted by the Keeper of the Gaol of *Ludgate* to go at large into *Southwark* with *I. S.* the Servant of the Keeper, and that by the Commandment of the Keeper. The Administrator of *A.* brought Debt against the Sheriff of London upon the Escape: It was adjudged by all the Barons of the Exchequer, that it was an Escape: And when the Prisoner came into *Surrey*, he had not any Keeper as a Prisoner for the Debt, for that

that he that waited upon him in the County of *Surrey*, could not be Officer to the Sheriff of *London*; for the Power of every Sheriff extends not beyond his own County, unless it be in special Cases: And it was holden in this Case, that this voluntarily suffering him to go into another County, when the Keeper or Servant waited upon him there, the Party might have an Action of false Imprisonment against him. *Pasch. 3 E. 3. Plow. Com. Plat and the Sheriff of London's Case. 36. vid. 3 E. 6. Dyer 166.*

If Traytors be imprisoned under the Custody of the Gaoler, and afterwards they break the Prison and escape, the same discharges not the Gaoler, but he shall be charged with the Escape; but it is otherwise of the King's Enemies; for in the one Case he hath his Remedy over, but in the other not. See *Co. 4 Part, 84. Southcot's Case. See 3 E. 6. Dyer 66.*

A Man was arrested upon a *Latitat* for 100 l. the Plaintiff intending upon his Appearance, and Bail put in, to declare against him for the same Debt; and being arrested by the old Sheriff, who returned *languidus*, &c. and yet left him in Prison, the new Sheriff suffered him to go at large, without finding Sureties for his Appearance; whereupon he brought his Action upon the Case against the Sheriff upon the Escape: Upon *Non culp.* pleaded, this Matter was found. It was adjudged for the Plaintiff; for this Permission to escape was a just Cause of Action, for by this Means the Plaintiff is defrauded or delayed of his Action. *Trin. 12 Jac. in B. R. King and Sir Basile Andrew's Case. Cro. 2 Part, 380.*

In Debt upon an Escape, it was holden by all the Justices, That if a Prisoner in Execution escape, and the Gaoler make fresh Suit, and before the retaking the Party brings his Action against the Gaoler: Now the Gaoler may not take the Prisoner, as to be in Execution again for the Party, but only for his own Indemnity. But if the Party doth not bring his Action, then the Gaoler may retake the Prisoner, and he shall be in Execution again for the Plaintiff. *Hill. 43 Eliz. in B. R. in Golash 180.*

If a Man escapes with the Consent of the Gaoler, he cannot retake him; if he doth, the other for his Discharge shall have an *Audita Querela*. *Co. 3 Part, 52. Ridgway's Case.*

Action upon the Case was brought against the Sheriff of *Middlesex*, for suffering one to escape who was arrested upon a Bill of *Middlesex* for 33 l. The Defendants pleaded, that after the Arrest, leading him towards *London* to the Gaol, he was rescued from their Bailiffs by 1. S. and 1. P. It was adjudged, that the Arrest being upon mean Process, and not upon Execution, the Sheriffs are not bound to take *Posse Comitatus* with them; and therefore upon such Process a Rescue is a good Return, and the Sheriff or Bailiffs are not chargeable upon an Escape: But upon a *Capias ad satisfaciendum*, or

Capias

What an
Escape.

Prisoner
retaken.

When a
Rescue dis-
charges the
Sheriff.

Capias Villagat. after Judgment, such Return is no Excuse for the Sheriff; for at his Peril he ought to keep his Prisoners taken in Execution: For there the Process is determined, and being executed, the Party can have no new Process; but in the other Case, there is not any great Mischief, for the Party hath only lost his Process, which he may renew, as also have an Action upon the Case against the Rescousors: It was adjudged for the Defendants, *May and Proby and Lumley*, Sheriffs of Middlesex's Case. *Pasch. 13 Jas. in B. R. Rot. 101. Cro. 2 Part, 419.*

When the Sheriff shall be charged with the whole.

It was holden by the Justices in the King's Bench, that if a Man be arrested by Virtue of a *Capias ad satisfaciendum*, or a *Capias Villagatum* after Judgment, and a Rescous is made at the same Time, by reason of which the Party arrested escapes, that the Sheriff shall be charged for the Escape, with the whole Debt, and he shall have his Remedy over against the Rescousor by an Action upon the Case. *Trin. 7 Eliz. Dyer 241. See 16 E. 4. 2 & 3.* But note, *Pasch. 15 Car. in B. R.* It was agreed by the Justices, that if the Sheriff doth arrest a Man upon a Mesne Process, and return a *Cepi corpus*, and that the Defendant was rescued, that no Action lieth against the Sheriff; but if the Party be taken upon an Execution, and be rescued, an Action upon the Case will lie against the Sheriff. *See March. Pasch. 15 Car. in B. R. 1.*

If the Sheriff die, and one breaks the Gaol, no Escape, &c.

Where the Sheriff dieth, and one in Execution breaketh the Gaol, and goeth at large, this is no Escape; for when a Sheriff dieth, all the Prisoners are in the Custody of the Law, until the Election of a new Sheriff.

If a Woman-Gaoler marrieth a Prisoner,

If a Woman be Warden of the Fleet, and a Prisoner in the Fleet marries her, this shall be adjudged an Escape in the Woman, and the Law judgeth the Prisoner to be at large. *Plowd. Com. Plar's Case.*

adjudged an Escape. *Plowd. Com. Plar's Case.*

It is an Escape, if Prisoners be remov'd out of the County, but they may be removed to another Place within the same County; but not for their Ease,

If the Sheriff remove his Prisoners out of the County without being commanded, it is an Escape. But if he remove them from one Place to another in his County as he changes his Gaol, it is no Escape; but if he remove his Prisoners for their Ease and Delight in the same County, it is an Escape: The Case was cited by *Harvey, Mich. 3 Car. Com. Banc.* That the Sheriff went with his Prisoner to a Bear-baiting in the same County, and it was adjudged an Escape. And *Hutton* Justice said, that if a Sheriff permit his Prisoners to go to work for their Benefit, it is an Escape. And the Question was, If in an *Audita Querela* for a voluntary Escape of one in Execution, for then it is an Escape. *Mich. 3. Car. Com. Banc.*

there

there should be Bail; and the Opinion of the Court was, that if it appears that the Cause upon which the *Audita Querela* is grounded, is called a good Proof by the Record, that he should not be bailed, unless good and special Bail.

If a Prisoner of his own Wrong escape and lie into another County, the Sheriff or his Officers upon fresh Suit, may take him again. See *Dalton's Office of Sheriffs*.

The Sheriff upon fresh Suit may take a Prisoner in another County.

If a Prisoner in the Gaol attempteth to escape, and having broken his Irons, striketh the Gaoler (coming in the Night to his Prisoner) and the Gaoler slayeth him, 'tis no Felony. 22 Aff. 35.

No Felony in the Gaoler to kill a Prisoner that attempteth to escape.

An Action of Debt was brought against a Gaoler for an Escape, who said that the Sheriff did not deliver him lawfully to him; and it was therefore ruled, 13 E. 3. Fitz. tit. Bar. Plac. 253. That he shall not take Benefit, nor any Notice whether he was lawfully delivered to him in Execution, or not: But he being once in his Custody, he ought to keep him in *arcta & salva custodia*, *sub salva* for the Gaoler, and *arcta* for the Party, the Plaintiff; the Party by this being coerced to pay the Debt.

All Prisoners ought to be kept in *salva & arcta custodia*. 13 E. 3. Fitz. tit. Bar. Plac. 253.

Mich. 12 Jac. An Action upon the Case was brought against the Sheriff of N. for an Escape; upon *Not guilty* pleaded, all the special Matter was found and shewed to the Court, which was this, That a *Capias* did issue to the Sheriff to take one (John) which was by a wrong Name, and the Sheriff returned *Non est inventus*; and upon this a *Testatum* issued out to him, and therein named him by his right Name; upon this the Sheriff took him, and had him in Execution, and afterwards suffered him to escape. The whole Court agreed, that the Sheriff is answerable for his Escape, notwithstanding the first *Cap.* was by a wrong Name; for he was taken, and suffered to escape: Here upon *Not guilty* pleaded, the special Matter was found, and shewed that the first *Capias* was by a wrong Name; yet the Court was clear of Opinion, that he being taken, and in Execution by his right Name, though the first *Capias* was erroneous, and not right, the Sheriff shall be chargeable for this Escape clearly; and so by the Rule of the Court Judgment was given for the Plaintiff.

Mich. 12 Jac. One taken upon a *Cap.* by a wrong Name, &c. a *Testatum* issued out against him by his right Name, and was taken in Execution, and suffered him to escape; and the Sheriff was judged answerable for the Escape.

Cro. 2. fol. 657, 658. Whiting's Case.
 A Man's Wife taken in Execution, and suffered to go at large before the Debt satisfied, judged an Escape.

A Reprisal by fresh Suit before the Action brought, excusable; but a Reprisal after the Action brought, no Excuse.

Co. 3. f. 52.

I think it very pertinent to our Subject-Matter, (and 'tis well worth Observation) to transcribe *Whiting's Case* against *Sir George Reynell*, Marshal of the King's Bench, in the second Part of *Crook's Reports*, fol. 657, 658. viz. Debt for 202 Pounds; whereas he recovered against *Thomas Abington*, and *Mary* his Wife, in Trespass for Damages, 202 Pounds; and the said *Mary* was committed in Execution to the Defendant upon this Judgment; That the Defendant, 24 November, 16 Jac. suffered her to go at large whither she would, his Debt not being satisfied, *per quod actio accrevit*. The Defendant pleaded that she brake Prison and escaped, and he freshly followed her and took her again, 21 October, 17 Jac. in fresh Suit, and had her in Execution, and yet hath her, &c. Whereupon the Plaintiff demurred; and it was now argued, that this Plea was not good, because the Escape is alledged, 24 November, 16 Jac. and the Action is brought, *Pascb. 17 Jac.* And this Reprisal is alledged a Year after the Escape, and after the Action brought. For it was alledged, although a Reprisal by fresh Suit (if it had been before the Action brought) would peradventure have excused him; yet being after the Action brought, so as the Plaintiff at the Time of the Action brought had good Cause to have the Action, the Reprisal after shall not excuse him; and compared it to Waste brought for Reparations, which is amended pendant the Writ, it shall not excuse him. So here.

And in Proof thereof were cited, *Co. 3. fol. 52. Ridgway's Case. 23 E. 4. 8. 13 E. 3. tit. Bar. 253.* But against this it was argued, that this Reprisal being alledged to be by fresh Suit, and before the Plea pleaded, is good for the Time, and he shall take Advantage thereof to excuse the Escape: For it is upon the Matter no Escape, when she was retaken by fresh Suit; for that is a continual Pursuit, and the Law shall adjudge her in Prison always. And it is not like the Case of Waste; for there nothing was done after the Waste committed, before the Action; and the Reparation hath not any Relation to, nor is the Continuance of any former Act; but this Reprisal hath Relation, and makes it no Escape; *ab initio*. As a Distress taken for Rent, and rescued, and driven into another Manor, which is pursued and retaken, the Party shall make his Avowry of the taking in the first Place. So here. And it would otherwise be a great Mischief, if an Escape should be against the Wills of Sheriffs, or Keepers of Prisons, by Breach of Prison, or rescuing themselves before they be brought to Prison, or in their going thither, and the Prisoners be reprised within two or three Days, that an Action should be brought in the *interim* against the Gaoler, and that this Reprisal (when he hath the Prisoner before the Plea) should not be an Excuse, especially to the Marshal, who hath Multitude of Prisoners, and every Day is to bring them unto the

the Hall by *Habeas corpus*, or Rules of Court: If peradventure a Prisoner escapes, and an Action be brought against the Marshal the same Day, before he can have any Time to retake him; if he should not be excused by the retaking, he would be charged with a Multitude of Suits, and could not have any Remedy to excuse him. And therefore it was compared to the pleading of a Fine levied before the Writ of *Formedon*, and Proclamations incurred, pendant the Writ before the Plea pleaded; he well may take Advantage thereof by pleading it, although when the Writ was brought, it was not compleat, nor could be pleaded. See 6 H. 7. 12.

Secondly, It was moved, admitting this to be no Plea, yet the Action lies not here, because the Escape is of a Feme Covert, where a Baron is subject to the Execution: So the Plaintiff hath not lost his Debt; for by Intendment she might not have paid it, if she had lain in Prison, for she had nothing but what was her Husband's, and the Execution remains yet against him.

Therefore Action of Debt lies not, because he is not totally deprived of his Debt; but an Action upon the Case, in respect of the Damage.

And therefore it was said, If one have Execution of a Statute of the Lands, Goods, and Body, &c. and the Prisoner escapes; yet because the Lands remain in Execution, Debt lies not for the Escape, but an Action upon the Case: For at the Common Law, an Action of Debt was not maintainable for an Escape, but it is given by the Statute of 1 R. 2. where the Debtor escapes. But here the sole and principal Debtor did not escape; for the Baron is the Principal, and remained subjected to the Execution. See 33 H. 6. 47. N. B. 93. Reg. fol. 98. 4 H. 6. 6.

Statute
1 R. 2.

Wherefore, &c. But the Court held, that it was not any Plea, because the Action is brought, and implies a voluntary Permission *ire ad largum*, which is neither denied or traversed. And if the Sheriff voluntarily lets a Prisoner at large, he cannot retake him. And so this Reprisal, as is alledged, being after the Action brought, is to no Purpose, nor is any Plea. And for the Action of Debt, they held that it well enough lies, or an Action upon the Case at his Pleasure; because the Feme was only committed to Prison, and not the Baron; and she is the sole Debtor who is imprisoned; wherefore it was adjudged for the Plaintiff.

But note, Inasmuch as Escapes are so penal to Sheriffs, Bailiffs of Liberties, and Gaolers, the Reverend Judges of the Law have always made a favourable Construction, as much as the Law will permit, in Favour of the Sheriffs, Bailiffs of Liberties, and Gaolers, who are Officers and Ministers of Justice. Co. 3: 44.

This Learning is become exceeding voluminous, and the Reader that desires more, may find all the Cases extant referred to in the *Tables to the Report-Books*.

Of Bail, what it is, and where the Sheriff may take Bail, and where not.

What Bail is, *Co. super Litt. lib. 1. cap. 10. Sect. 79.*

BAil, or *Ballium*, is a safe Keeping or Protection; and thereupon we say, when a Man upon Surety is delivered out of Prison, *traditur in ballium*, he is delivered into Bail, viz. into their safe Keeping, or Protection from Prison, before that he hath satisfied the Law: It hath its Original or Derivation from the *French* Word *Ballier*, and that also cometh from the *Greek* Word *Βαλλειν*. They both signifie to deliver into Hand; for he that is bailed, is taken out of a Prison, and delivered into the Hands of his Friends, who are his Sureties for his Appearance at a certain Day, to answer, and be justified by the Law.

Any Person making a Warrant, &c. with our original Process upon Examination, &c. shall be committed without Bail.

Sheriffs, Under-Sheriffs, or other Persons, making any Warrant for the Summons, arresting or attaching any Person to appear in any Court, not having the original Process or Writ to warrant it, upon Examination and Proof thereof before the Judges of Assize, or Judges of the Court, &c. such Offenders and their Procurers shall be committed to the Gaol, there to remain without Bail until they have paid (amongst them) 10 l. to the Party grieved, and his Costs and Damages; as also 20 l. to the King. 43 *Eliz. c. 6.*

&c. 43 *Eliz. cap. 6.*

Such as are in Execution, &c. nor to be bailed.

Such Persons as are in Execution upon any Statute or Recognizance, or upon Judgment given in the King's Courts at the Suit of any Person, they shall not be bailed until they have agreed with the Plaintiff. 1 *R. 2. c. 12. 23 H. 6. c. 10. F. N. B. 9. and 121. a.*

The like.

Persons condemn'd in any of the King's Courts, and by Virtue thereof committed to Prison, they shall not be bailed until they have agreed with the Plaintiff. 1 *R. 2. c. 12. 2 H. 5. c. 2. F. N. B. 121. a.*

None to be bailed that are prohibited by the Statute of *Westm. 1. cap. 15.*

If the Sheriff do let to Bail any Persons prohibited (by the Statute of *Westm. 1. cap. 15.*) to be bailed, he shall be punished by Justices of Gaol-Delivery, according to the Form of the same Statute; or the Justices may fine them, as for an Escape punishable at the Common Law. 25 *E. 3. 39.*

The

The Sheriff might at the Common Law have bailed one suspected of Felony, because he is Conservator of the Peace; but now it seems the Power is transferred to the Justice of the Peace only. See the Statute 1 R. 3. c. 3. and 3 H. 7. 3.

If a Prisoner bailable tender sufficient Sureties to the Sheriff, and he refuseth, he shall be amerced to the King and Informer 40 l. and shall lose treble Damages to the Party grieved.

He cannot bail any suspected of Felony, as formerly

He cannot refuse to bail one bailable, upon Tender of sufficient Sureties.

If a Person be arrested by Virtue of any Writ or Precept in any Action personal, upon Tender of reasonable Sureties to appear at the Day and Place, as the said Writs, Bills, or Precepts shall require, he shall be bailed. 23 H. 6. c. 10. Fitz. 251. b. And the Person is not obliged to go to the Sheriff, if he offer sufficient Bail to the Bailiff.

Persons apprehended for any Manner of Treason or Felony shall not be bailed. *Westm. 1. cap.*

It is a constant Course of the King's Bench, that the Bail is never chargeable till there is Default assigned in the Principal upon the Return of a *Capias ad satisfaciendum*. And if the Principal render his Body, though the Plaintiff refuse to take it, yet that is a Discharge of the Bail. *Winch. Rep. f. 62.*

Traytors or Felons not bailable.

In the King's Bench the Bail not chargeable till Default assigned in

the Principal, &c. *Winch. Rep. fol. 62.*

It is not repugnant to our present Subject to transcribe the new Rules concerning Special Bail, viz.

1. That if the Defendant appear upon the Summons, Attachment, or Distress, or by *Supersedeas quia improvide*, or doth truly render himself upon the Exigent, no Bail is requireable. The new Rules,

2. That in all Causes of Removal, be it by *Habeas corpus*, Privileges or *Certiorari*, Special Bail ought to be given.

3. That in Causes where the Defendant comes in by *Capi corpus*, be it Debt, Detinue, Trespass for Goods, Action upon the Case, (except Slander) if the Debt or Damages amount to 20 l. Special Bail is to be given, except it be against an Heir, Executor or Administrator.

4. That in Covenant, because the Damages are uncertain till the Declaration, Bail at Discretion.

5. That in Battery, Conspiracy, false Imprisonment, no Special Bail of Course, without special Motion and Order.

6. That in Slander no Special Bail, except in Slander of Title, wherein to be left to the Discretion of the Judges.

7. That in Privilege, other than for Fees and Disbursements as an Attorney in this Court, Bail at Discretion of the Court. In such Case where a Suit by a common Person, especial Bail is not requisite.

8. That if Bail be given upon Reversal of an Outlawry, or removed by *Habeas corpus*, the Original to be shewn upon tendering of the Declaration, otherwise the Bail not liable, unless the Party or his Attorney will voluntarily appear, or take a Declaration without shewing of it.

9. That in case of a Removal out of an inferior Court, or Reversal, the new Original to agree in the Nature of the Action, the Sum in Demand, and the County, otherwise the Bail not liable; but if the Party will voluntarily appear to such varying Original, to be good as to the Party; but if upon a Cause removed by *Habeas corpus* out of the Courts of *Canterbury*, *Southampton*, *Hull*, *Litchfield* or *Pool*, which are Counties where the Judges of *Nisi prius* seldom come, if the Action be transitory, it must be laid in the County of *Kent*, *Southampton*, *York*, *Stafford* or *Dorset*, where the Town and County lieth, and the Recognizance to be taken accordingly.

10. That the Principal rendering himself at any Time after Bail put in, and before or upon the Day of Appearance of the *Scire fac.* returned *Scire feci*, or of the second *Scire fac.* returned *Nihil*; or in case there shall be an Action of Debt brought upon the Recognizance against the Bail, then if the Principal shall render himself upon or before the Process returned or served, no further Proceeding to be against the Bail.

Of the Election of Parliaments-men, how, and when they are to be elected, &c.

Stat. 7 H.
4. 15.

Co. Inst. 4.
fol. 48.

THE Manner of electing Knights of the Shire is as followeth; *viz.* At the next County-Court after the Delivery of the Writ, Proclamation is to be made in full County, of the Day and Place of the Parliament; and that all there present, as well Suitors summoned as others, shall attend to the Election of the Knights; and then in full County a free and indifferent Election shall be made, notwithstanding any Request or Mandate to the contrary. And note, That no Election can be made of any Knight of the Shire, but between the Hours of Eight and Eleven in the Forenoon; but if the Election be begun within that Time, and cannot be determined within those Hours, the Election may be made after. And if any Election or Voices be given before the Precept be read and published, they are void and not effectual.

Like-

Likewise he ought immediately after the Receipt of the Writ of his Majesty for the summoning of the Parliament, to make his Precepts under the Seal of his Office, to every Mayor and Bailiff of Cities and Boroughs within his County, commanding them thereby to chuse Citizens and Burgeses to come to the Parliament. And those Mayors and Bailiffs must make a legal Return of that Precept to the Sheriff of their Election, and their Names that are elected: The Sheriff setting his Hand and Seal of Office to one Part of the Indentures, delivering it to the Mayor, Citizens or Burgeses, to be kept; the Mayor, Citizens or Burgeses setting their Hands and Seals to the other Part, delivering it as their Deeds to the Sheriff, to be certified and returned by him with the Writ of Summons to the Clerk of the Crown, whose Fee is 4 s. for every Indenture. 23 H. 6. cap. 15. *Comp.* 208. *P. Parl.* 5.

23 H. 6. c.
15. *Comp.*
208.

Note, That after the Precept of the Sheriff directed to the City or Borough for making of Election, there ought *secundum legem & consuetudinem Parliamenti*, to be given a convenient Time for the Day of Election, and sufficient Warning given to the Citizens or Burgeses that have Voices, that they may be present, otherwise the Election is not good.

Rot. Parli-
am. 5 H. 4.
num. 38.
Co. Inst. 4.
fol. 49.

And likewise note, that whereas in the Charters of Corporations it is said, That in the Election of the Mayor, Bailiffs, Provosts, Parliament-men, or the like Magistrates or Officers, they shall be chosen by all the Commonalty or Burgeses; if they have been chosen (Time out of Mind) by a certain select Number, commonly called the Common-Council, or by such like Name, and not in general by all the Commonalty or Burgeses, only so many of them as will come to the Election; such ancient and usual Elections are good and well warranted by their Charters, and by the Law also; for in every of their Charters they have Power given them to make Laws, Ordinances and Constitutions, for the better Government of their Cities, Boroughs, &c. by Force whereof, and to avoid popular Confusion, if they by their common Consent do constitute and ordain: that the Mayor, Bailiffs, and other principal Officers, shall be chosen by a certain select Number of the principal of the Commonalty or Burgeses, as aforesaid, and prescribe also how such select Number shall be chosen, such Ordinances and Constitutions were resolved to be good and allowable, and to agree with the Law and their Charters, for avoiding of popular Discord and Confusion: And it was resolved, that although such an Ordinance and Constitution cannot be now produced, yet it shall be presumed, in respect of such a Manner of ancient and continual Election, that at first such an Ordinance or Constitution was made; and it was said, that by the ancient and usual Usages, Elections have been so made in the Cities of London, Norwich, and in other

Election
good, if
according
to ancient
Usage.

Cities and Corporations, all which were resolved to be good ; and they were not to be innovated or altered, for the many great Inconveniencies which may arise thereby. *Co. 4 Part, 77. The Case of Corporations.*

Co. Inst. fol. 48. Who may be Electors.

At the Election, if the Party elected, or the Freeholders demand the Poll, the Sheriff cannot deny the Scrutiny, for he cannot discern who are Freeholders by the View ; and though the Party would have the Poll, yet the Sheriff must proceed in the Scrutiny. And by the Statute of 8 H. 6. c. 7. and 10 H. 6. c. 2. the Election of Knights of the Shire shall be made by the more Voices of the People dwelling in the Counties, having each of them Lands or Tenements of the yearly Value of 40 s. besides Reprises ; and the Sheriff hath Power to examine upon Oath the Chusers, how much they may expend by the Year.

7H. 4. c. 15. After such Election, the Names of the Parties so elected (be they present or absent) shall be written in an Indenture, under the Seals of all those that did chuse them ; which Indenture so sealed and tacked to the said Writ, shall be the Sheriffs Return thereof touching the Knights of the Shires : And in such Writs (by the said Statute) this Clause shall be hereafter put, *Et electionem tuam in pleno Comitatu tuo factam disinsiste & aperte, sub sigillo tuo & sigillis eorum qui electioni illi interfuerunt, nobis in Cancellaria nostra ad diem & locum in brevi contentum certifies indilare.*

What Persons are eligible, and who not.

Such Persons as are eligible shall be resiant in the County for which they are chosen, the Day of the Date of the Writ of Summons, and likewise those that chuse them : Also Citizens and Burgeses shall be resiant in, and free of the Cities and Boroughs for which they are chosen.

Co. Inst. 4. fol. 48.

One under the Age of one and twenty Years is not eligible, neither can any Alien be elected of the Parliament, until he be naturalized by Parliament, after which he is eligible to this or any other Place of Judicature.

Ibid.

None of the Judges of the King's Bench, or Common Pleas, or Barons of the Exchequer, that have judicial Places, can be chosen Knights, Citizen, or Burges of Parliament, because they are Assistants in the House of Lords. As for present Times I make a *Quare* of this.

Ibid.

A Man attaint of Treason, Felony, &c. is not eligible ; for touching the Election of two Knights, the Words of the Writ are, *Duos milites gladiis cinctos, magis idoneos, & discretos eligi fac.* And for Election of Citizens and Burgeses, the Words of the Writ are, *Duos, &c. discretioribus & magis sufficientibus ;* which they cannot be said to be, when they are attainted of Treason or Felony, &c.

Any of the Profession of the Common Law, and who are in Practice of the same, are eligible.

The Punishment of Sheriffs for their Negligence in returning of Writs, or for leaving out of their Returns any City or Borough which ought to send Citizens and Burgeses. See 5 R. 2. Stat. 2. cap 4. Also if one be duly elected Knight or Burges, and the Sheriff return another, the Return must be reformed and amended by the Sheriff, and he that is duly elected must be inserted: For the Election in these Cases is the *Radix* or Foundation, and not the Return. Rot. Parl. 5 H. 4. n. 38. Co. Inst. 4. fol. 47.

Punishment of Sheriffs for their Negligence in Elections or Return

By the Statute of 16 Car. every County, City, Cinqueport and Borough that shall not make Election of their Knights and Citizens, Barons and Burgeses respectively, shall incur the Penalties following, (that is to say) every County the Sum of one thousand Pounds, and every City which is no County 200 l. and every Cinqueport and Borough the Sum of 100 l. except the Freeholders of any County, and Inhabitants, or other Persons having or claiming Power to make Election of any Knights, Citizens, Barons or Burgeses, shall proceed to making of Elections of them, which Elections shall afterwards fall out to be adjudged or declared void in Law by the Parliament by reason of Equality of Voices, or Misdemeanor of any Person whatsoever, then the said County, City, &c. shall not incur the Penalties aforesaid, so as an Election *de facto* be made.

Penalties on Counties and Places for not electing.

Note, A Case worthy Observance adjudged. 14 Car. 2. *Intrat. Hill.* 13 & 14 Car. 2. Rot. 1184. Co. B. *Lechmer's Case*. Trespass *pedibus ambulando & cum spadonibus*, &c. The Defendant justified, because that a Writ issued to the Sheriff of Worcester to chuse Knights for the said County to be at the Parliament; and that the next County-Court for the said County, after the Receipt of the Writ, was holden at the Castle of Worcester; and because the said Castle was not large enough to contain the Freeholders assembled to make the said Election, the said County-Court adjourned it self from the said Castle of Worcester, to the Place *in quo*, &c. The said Defendant further said, That he, at the Time of the Court holden, as aforesaid, and adjourned, as aforesaid, was a Freeholder inhabiting within the County of Worcester, seised of Lands and Tenements in Hanley-Castle, in the County aforesaid, to the Value of 200 l. per Annu. and that the Dwelling of the Defendant was distant from the Place *in quo*, &c. six Miles; and that the Defendant in Obedience of the said Writ and Adjournment, came *proad. tempore quo*, &c. from his Dwelling-house to the Place *in quo*, &c. riding upon a Gelding, with one Servant attending as his Servant upon the Person of the Defendant, riding upon another Gelding, to the Intent that the Defendant might give his Voice for the Election of two Knights, according to the Command of the said Writ.

Of the Election of Parliament-men.

Upon which the Plaintiff did demur in Law; and upon Argument at the Bar, Judgment was given by the whole Court, viz. *Tirrel, Brown, Hyde and Bridgman* Chief Justice, for the Defendant.

In which Case these Points were resolved :

1. That the County-Court, as to the Election of Knights, is the Court of the Sheriff, and the Sheriff is the Judge, and the Adjournment his Act, the Writ being in the Nature of a special Commission (*eligi facias*) although that in other Cases the Suitors are Judges.

2. That if the Sheriff adjourn the Court to another Place, and the Suitors do not attend at the Place of Adjournment, they are amerceable by the Sheriff.

3. That they by their Attendance are not Trespassers, by reason of the Necessity to make Election. (*Interest Reipublicæ.*)

4. That if the Sheriff maliciously adjourn to an unfit Place, as a Field of Corn, &c. that an Action lieth only against him, not against the Freeholder.

5. That the Defendant living at such a Distance from the Place of Adjournment, may justify his coming there on Horseback.

6. That the Defendant being an Esquire, may justify his coming thither with one Servant on Horseback attending upon him. Adjudged for the Defendant.

But who shall be Electors, and who shall be elected, and the Time, Place, and Manner of Elections, and therein the Duty of the Sheriff, you may read more amply in the positive Laws of 7 H. 4. cap. 15. 11 H. 4. cap. 1. 1 H. 5. cap. 1. 8 H. 6. cap. 7. 10 H. 6. cap. 2. 23 H. 6. cap. 15. 6 H. 6. cap. 4, &c. which need not here be particularly rehearsed.

Of the Office of Under-Sheriff.

What he is.

*Hob. fol. 13.
Norton's
Case
against
Simms.*

THE Under-Sheriff (in effect) is but the Sheriff's Deputy, and acts whatsoever is to be acted by the High-Sheriff; (except some Particulars which are to be done by the Sheriff himself, as you shall find in several Places of this Treatise) and therefore according to the Nature of a Deputation, must be removeable as an Attorney is; and though the Sheriff should make him irrevocable, yet may he revoke him; for there is neither Common Law nor Statute Law that makes him immoveable. He is but in the Nature of a general Bailiff.

liff Errant to the Sheriff, and the whole County, as other Bailiffs are over a particular Hundred.

His Oath appointed by the Statute of 27 Eliz. is, *That he shall bear himself well for as long as he shall continue in the Office.* It is necessary both for the publick Service, and for the Indempnity of the Sheriff, that he be removeable by the Sheriff.

The Sheriff constituting an Under-Sheriff, doth implicitly give him Power to execute all the ordinary Offices of the Sheriff himself that may be transferred by the Law; as serving of Process and Executions, &c. But he cannot deal in a Writ of Redisseisin, because in that the Sheriff is Judge; nor in the Case of a Writ of Waste, where the Sheriff himself (*in propria persona*) is commanded to go to the Place wasted, because it is personal unto the Sheriff himself.

He hath Power to execute all the ordinary Offices of the Sheriff, that may be transferred by the Law, &c.

If a Sheriff will make an Under-Sheriff, provided that he shall not serve Executions above 20 l. without his special Warrant, this Proviso is void. For though it be at his Election not to make an Under-Sheriff at all, or may depute him at his Will, and so remove him wholly; yet he cannot leave him an Under-Sheriff, and yet abridge his Power, no more than the King may in case of the Sheriff himself. *Hob. Rep. fol. 13.*

The Sheriff ought to be very cautious in taking good and sufficient Security of the Under-Sheriff, to discharge, protect, and save him harmless of Escapes upon Arrests made by himself; for since that he transfers his Authority unto him, it is Reason he take Security of him to perform all Things justly and honestly to himself and others, not acting or intending any Thing against Law. See more in the Articles betwixt the High-Sheriff and Under-Sheriff, amongst the Precedents.

The Sheriff must take good Security of him, &c.

The Sheriff's Fees.

	s.	d.	
T O the Sheriff,	co	01	08 The Sheriff's Fee
To the Bailiff who makes the Arrest or	00	00	04 upon an Arrest
Attachment of the Plaintiff,	00	00	06
To the Gaoler, if the Person be committed to	00	00	04
Prison,	00	00	04
For the Obligation for Appearance if the	00	00	04
Prisoner be bailed,	00	00	04
For making the Warrant upon the Writ, for	00	00	04
every Name,	00	00	04
For the Copy of a Panel,	00	00	04
For returning of a Panel, though it seems to	00	02	00 Extortion
be Extortion by <i>Lamb fol. 4. 15. and Cromp. fol.</i>	00	02	00 by <i>Lamb.</i>
205. b they use to take	00	00	04 <i>fol. 4. 15.</i>
For the Return of every <i>Capi corpus,</i>	00	00	04 <i>Cromp. fol.</i>
			205. b.

The Sheriff's Fees.

	l.	s.	d.
For the Return of a <i>Nihil</i> , or <i>Non est inventum</i> ,	00	00	04
For the Return of every <i>Venire facias</i> , <i>Tales</i> , <i>Habeas corpora</i> and <i>Distingas</i> ,	00	02	04
For making a Precept upon a Writ to a spe- cial Bailiff, for every Name,	00	02	00
For the Copy of the Warrant upon the Writ,	00	00	04
For the returning of a <i>Mandavi ballivo</i> ,	00	00	04
For Writs of Execution upon the Judgment upon Bills sued in personal Actions, the Debt or Damage being under 40 s.	00	01	00
Upon Bills sued above 40 s. in Actions perso- nal, for the Return of every such Bill,	00	00	04
For every Writ of Execution,	00	02	00
For executing of every Writ of <i>Elegit</i> in per- sonal Actions,	00	06	08
In all real or mixt Actions sued by original Writ, for Return of every original Writ,	00	02	00
And for Return of every other Writ of Ju- dicial Process depending upon the same before Judgment,	00	02	00
And for every Writ of Execution after Judg- ment, upon every Original in Actions, real or mixt,	00	02	00
For executing every <i>Habere fac. seisinam</i> ,	00	06	08
For Attachments upon <i>Capias</i> , or other Pro- cesses sued by original or judicial Writ, if the Re- turn be <i>Capi corpus</i> ,	00	02	00
For a <i>Reddidit se</i> upon an Exigent of Felony in Appeal of Murder or Maihem, or upon an Indictment of Felony or Murder,	00	2	00
Upon a <i>Reddidit se</i> upon an Exigent of Debt, Trespas, Detinue, and all other Actions per- sonal,	00	02	00
For Return of every Writ of Appeal of Mur- der, Felony, or Maihem,	00	01	00
And upon all Process growing upon the same, as <i>Venire facias</i> , <i>Tales</i> , <i>Habeas corpora</i> and <i>Di- stingas</i> ,	01	01	00
For every Prisoner delivered by Acquittal, or by Proclamation, for every Manner of Fe- lony,	00	01	00
For executing of a Writ to enquire of Waste. Likewise for executing a Statute.			
For serving of a Writ <i>De Partitione facienda</i> .			
For removing the Over-charge of Common of Pasture.			
For Enquiry upon an <i>Elegit</i> ,			

The Sheriff
is to be
compound-
ed and
agreed
with for
these.

For

For Writs of Forcible Entry, or holding with Force, where-
upon the Party amoved is to be restored to his Possession.
For Execution of a Judgment upon a Writ.

*The Under-Sheriff of Middlesex useth to take these
Fees following in the Court of Common Pleas.*

F OR a Warrant for a <i>Cap.</i> upon every Name,	00	00	04
For the Return of a <i>Venire facias</i> ,	00	02	00
For a Warrant upon a <i>Capias Utlagatum</i> ,	00	00	04
For a Return of a <i>Habeas corpora Juratorum</i> ,	00	04	00
For summoning the Jury, for every Name,	00	00	04
For Return of a Proclamation,	00	01	00
For Return of a <i>Scire facias</i> ,	00	02	00
For Return of a <i>Nihil habet</i> and <i>Fieri facias</i> ,	00	01	00

For executing an Extent or Execution upon Body, Lands, Goods and Chattels, 1 s. for every 20 s. where the Sum exceeds not 100 l. that is to say, for every 20 s. that he or they shall levy or extend, and deliver in Execution, or take the Body in Execution, by the Statute of 29 *Eliz. cap. 4.*

For execu-
ting an
Extent or
Execution.

*Of Sheriffs Accounts, with a Particular of some usual
Charges or Fees paid by them at the rendering of their
Accounts.*

THE Sheriff giveth his Accounts into the Exchequer, and there is charged with his Casualties, which are all Manner of Debts of Casualties and Reliefs, Fines, Amerciaments upon the Sheriff, Debts recovered, and such like, as are drawn down either from any Record of any of the Remembrancers of the Exchequer, or from any other Matter, Ground, or Seizure of the Court; and the Sheriff must answer to every Sum charged upon him as he hath Cause; that is to say, such a Sum within such and such a Liberty, and sheweth whose they be.

He is charged with old Seisures, which are Lands and Tenements seised before by his Predecessors, upon the Process of the Court; and likewise with his own Seisures, which are Lands and Tenements seised in his own Time by Process of the Court, and so addeth to these such Felons Goods as he hath seised himself.

There

The Sheriff's Accounts.

There the Sheriff hath such Allowances as are allowed him by Act of Parliament, together with the Justices of Peace Wages of his Shire out of the Fines and Forfeitures before the Justices of Peace thereof, if the Estreat will bear them, laid out before the Sheriffs for the Justices Wages, according to the Statute; of the which Allowance, and of the particular Names of the Justices, the foreign Apposer doth deliver a Roll into the Pipe, for the Clerk of the Pipe's Warrant to allow the same Wages to the Sheriff. After which Things done, viz. Allowance of all Payments, Deductions, and annual Charges, then hath he his *Quietus est*. The Fees are as follow.

	l.	s.	d.
In the Term of St. Hillary, on the Morrow of Purification, &c.			
<i>Imprimis</i> , To his Attorney for his Warrant of Attorney, &c. for his own Fees, and his Man's Fees, and to another for entring the Warrant,	02	00	02
To the Puny-Baron for ministring the Oath for the Apposal upon the Summons of the Pipe, his Fee for the Vicontels, and his Man's Fee for the same,	01	07	00
To the Marshal, Cryers and Tipstaves there,	01	06	00
The Fees of the foreign Apposer and his Men are,	04	00	00
For his Writ of Assistance from his Attorney,	00	05	06
His Attorney's Fees in the Pipe, and his Man's Fees,	06	00	00
The Fees of the Deputy of the Pipe,	01	03	04
To the Controller of the Pipe, his Man, and other Officers of the Pipe,	02	15	02
His Attorney's Fee in the Remembrancer's Office, and his Man's Fee,	00	06	10
To the Master of the Wardrobe for his Fee, for a Talley, to have thereby an Allowance given for it, and for joining of that Talley in the Pipe,	05	16	05
To the Master of the Pipe for his Fee,	18	05	00
The foreign Apposer's Fee for Allowance of Justices Wages to the Sheriff upon the Extracts of the Peace, and for the casting up of the Debt upon the Schedules of the Green Wax, and to his Men for their Fee,	02	18	04
To the Auditor assigned for the Shire for declaring of the Account,	12	00	00
To the Attorney of the Pipe for giving Allowance of the Justices Wages, before allowed by the foreign Apposer in the Sheriff's Account, and for the Foot of the Account, and to his Man,	02	06	08

To

	l.	s.	d.
To the Baron for declaring of the Account, and to his Man for his Fee,	} 00	08	08
To the Attorney in the Remembrancer's Office, for examining of the Account, and to one for the receiving of the Account,	} 00	05	00
For Copies of the Seizures which the Sheriff makes himself in his Year, commonly at the least,	} 05	00	00
For Copies of the new Seizures, according to the Number of them, in some Counties but 20 s. but most commonly in <i>Yorkshire</i> to,	} 02	00	00
For Petitions upon the Account, for each,	00	04	00
For another Writ of Assistance,	00	05	00
For entering the View of the Account, and in the Alienation-Office for viewing of the Account, and for a Note of the Charge there,	} 00	09	08
For every Schedule of Issues upon general Pardons, and to the Clerk of the Exchequer's Man,	} 00	15	00
To a Baron for allowing of them, and to the Baron's Man,	} 00	17	04
In the Alienation-Office for the making of the Bond and Acquittance with the Schedules of Seizures against such as have sold Land held of the King without Licence of Alienation,	} 10	06	00
For a Warrant for a Day to finish the Ac- count until <i>Michaelmas</i> Term,	} 00	10	00
To the Attorney in the Pipe-Office for set- ting off from the Account six Amerciaments, and to his Man,	} 01	10	00
For discharging the Amerciaments, and for a Warrant to set off and discharge,	} 01	12	06
For another Writ of Assistance,	00	05	06
If the Sheriff cannot go through with his Account in <i>Trinity</i> Term, then to the Marshal for Liberty, and to his Man,	} 04	13	04
For ruling and making the Petitions, and to his Man,	} 09	00	00
To the Master of the Pipe for his Fee,	00	13	04
To the Controller of the Pipe for his Fee, and to his Man,	} 02	12	00
The Fee of the Attorney of the Pipe, and to his Man,	} 06	02	06
For the Acquittances of two Tallies in the Receipt, and for striking off those Tallies,	} 00	05	04
To two Auditors for casting up of the She- riff's Account in Court, when he is to be cast out of the Court,	} 00	10	00

To

The Sheriff's Accounts.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
To the Baron then, and to his Men,	01	07	00
To the Marshal, Tipstaves and Cryers then,	00	16	08
To the Clerk of the Pipe for Recusants, and for allowing and joining of the Talley for Re- cusants Debts,	01	16	00
To the Baron for Respites for Recusants Debts,			
To the Clerk of the Pipe for Recusants for allowing of that Warrant, and to the Master of the Pipe for the same,	00	13	04
To the Bag-bearer,			
For the <i>Quietus est</i> , to the Sheriff's Attorney of the Pipe, and to his Man,	04	06	08
For the <i>Quietus est</i> for the Recusants,			
<i>Cum multis aliis, &c.</i>	01	00	00

But the Sheriff is at much more Charge, which is laid out, and is disbursed during his Sherifffick, as Experience will better inform him.

The old Oath of the Sheriff. [See post by whom this Oath is to be taken, and the Form of the new Oath.]

YOU shall swear, That you shall well and truly serve our Sovereign Lord the King in the Office of the Sheriff of the County of Yorkshire, and do the Kingdom Profit in all Things that belongeth to you to do by way of your Office, as far forth as you can or may. You shall truly keep the Kingdom's Right: You shall not assent to the Decrease, or lessening, or to Concealment of his Majesty's Rights, or of his Franchises: And whatsoever you have Knowledge that his Majesty's Rights have been concealed or withdrawn, to be in Lands, Rents, Franchises or Suits, or any other Things, you shall do your true Power to make them to be restored to his Majesty again: And if you may not do it, you shall certify his Majesty, his Council, or some of them thereof. You shall not respite his Majesty's Debts for any Gift or Favour, where you may raise them without great Grievance to the Debtors: You shall truly and rightfully treat the People of your Sherifffick, and do Right as well to Poor as to Rich, in all that belongeth to your Office: You shall do no Wrong to any Man for any Gift, or other Behest or Promise of Good, for Favour nor Hate: You shall disturb no Man's Right: You shall truly acquit at the Exchequer all those of whom you shall receive any of his Majesty's Debts: You shall take nothing whereby his Majesty or the Kingdom may lose, or whereby the Right may be letted or disturbed, and his Majesty or the Kingdom delayed: You shall truly return, and truly serve all his Majesty's Writs as far forth as shall be

to your Cuning: You shall not have to be your Under-Sheriff any of the Sheriffs of the last Tear past: You shall take no Bailiff into your Service, but such as you will answer for: You shall take Oath of your Bailiffs to make such Oath as you make your self in that which appertaineth to their Occupation: You shall receive no Writ by you nor any of yours unsealed, or any sealed under the Seal of any Justice, saving the Justices of Assize, or Justices assigned in the same Shire where you are Sheriff, or other Justices having Power and Authority to make any Writs unto you by the Law of the Land, or of the Justices of Newgate. You shall make your Bailiffs of true and sufficient Men in the County. Also you shall do all your Power and Diligence to destroy and make to cease all Manner of Heresies and Errors, commonly called Lollaries, within your Bailiwick, from Time to Time, to all your Power, and assist and be helping to all the Ordinaries and Commissioners. You shall be dwelling in your own proper Person within your Bailiwick for the Time you shall be in the same Office, except you be otherwise licensed by our Sovereign Lord the King: You shall not let your Sheriffwick, nor any Bailiwick thereof to any Man: You shall give and return reasonable and due Issues of them that be within your Bailiwick after their Estate and Behaviour, and make your Panels your self of such Persons as be next most sufficient, and not suspect nor procured, as it is by the Statutes provided. And over this, in eschewing and Restraint of Manslaughters, Robberies, and other manifold grievous Offences that be done daily, namely, by such as name themselves Soldiers, and by other Vagrants, the which increase in Number and multiply, so that the People of this Kingdom may not in Safety ride, nor go to do such Things as they have to do, to their intolerable Harm and Hindrance: you shall truly and effectually with all Diligence possible to your Power execute the Statutes, as the Statute of Winchester, and for Vagabonds. All these Things you shall truly observe and keep, as God you help.

How the Law anciently stood as to Sheriffs Accounts, we leave the Curious to see in the Lord Chief Justice, Hales's Treatise on that Subject, and Mr. Madox's excellent History of the Exchequer; how it stands now, the Reader will best learn by the following Act of Parliament:

P Anno

Anno Tertio Georgii Regis, Cap. 15.

An Act for the better regulating the Office of Sheriffs, and for ascertaining their Fees, and the Fees for suing out their Patents, and passing their Accounts.

Clerks and Officers concerned in passing Sheriffs Patents, or their Accounts, to take only the Fees in the Schedule annex'd, on Forfeiture to the Party grieved, of 5 l. and treble the Sum taken above the said Fees, with treble Costs to be ordered on Complaint by the Exchequer in a summary Way.

§. 1. FOR the greater Ease of Sheriffs in the Execution of their Offices, and passing their Accounts, be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by Authority of the same, That the several Officers of his Majesty's High Court of Chancery, Court of Exchequer, and the several Auditors and Receivers of the Revenue of the Crown in Wales, and their respective Substitutes, Deputies, Agents, Clerks, and all other Officers and Persons whatsoever, having and claiming any Fee or Reward whatsoever to be due and payable to him or them from any Sheriff, Deputy-Sheriff, or Under-Sheriff, of any County in England and Wales, for making out his or their Patents or Commissions, or the *Didimus* for receiving them into their Office, or for entering their Recognizance or Security, or for Writing out and Return of their Process, or for their Apposals, or Casting out of Court, or for passing their Accounts, or for making their *Quartus*, or for any other Matter or Thing whatsoever touching or concerning their Sheriffalty, may from and after the first Day of Michaelmas Term, in the Year of our Lord, One thousand seven hundred and seventeen, severally and respectively, for themselves, and the Persons for whom they act and officiate, receive and take for their Pains and Service in the Matters aforesaid, the several Fees or Sums of Money in the Schedule or List hereafter mentioned or specified: All which Fees in the said Schedule mentioned the said several and respective Officers, Deputies, Clerks, and other Persons, may claim, take and receive, from Time to Time, and shall not demand,

take,

take, or receive any other or greater Fee or Reward whatsoever, in any wise touching or concerning the Premises in the said Schedule mentioned, or any other Matter or Thing relating to the Patent or Swearing of any Sheriff, or to the passing of his Accounts; and if any Person shall offend herein, such Person shall forfeit to the Party aggrieved five Pounds, and treble the Sum by him taken, over and above the just Fees mentioned in the said Schedule, together with his treble Costs; all which shall be ordered, awarded and given to the Party aggrieved by the Court of Exchequer, upon Complaint and Proof of such Offence made and exhibited before the Barons of the said Court in such short and Summary Way and Method as to them shall seem meet.

§ 2. And whereas the Profers payable by the Sheriffs of the several Counties of England, into the Receipt of the Exchequer at *Easter* and *Michaelmas* yearly, remain the same at this Day that they anciently were, although many of the Rents and Certainties, out of which the said Payments arise, have of late Years, been alienated from the Crown: Be it further enacted by the Authority aforesaid, That the Lord High Treasurer of Great Britain, or Commissioners of the Treasury for the Time being, the Chancellor and Chief Baron of his Majesty's Court of Exchequer, and the rest of the Barons of that Court, or any two or more of them, shall and may, from Time to Time, at the Request of any Sheriff or Sheriffs, or as often as they shall think fit, call before them the Remembrancer in the Court of Exchequer, (commonly called the Treasurer's Remembrancer) and the Clerk of the Pipe, or their Deputies, Secondaries, and such other Officers as they shall think fit; and shall cause the said Officers, or some of them, to bring before them an Account or Particular of all the Rents and Certainties written out yearly in Processess, to the Sheriff of each respective County in England, to levy for the Crown; and upon due Examination and Consideration thereof had, are hereby impowered and required, from Time to Time, to alter, diminish, reduce, or establish the several Sums wherewith the said Sheriffs stand, or shall stand, chargeable on the Rolls of Profers in the said Court of Exchequer, to such reasonable and moderate Sums as to them shall seem just and reasonable, with Regard to the Amount or Value of the Rents in each County respectively; and that Orders of the Court of Exchequer be drawn up pursuant thereunto, and entred upon Record in the several Offices of his Majesty's Remembrancer, the Lord Treasurer's, or the Commissioners of the Court of Exchequer; and the Rents so settled to be the Profers of each County, payable to the Sheriff, and no other.

The Lord Treasurer, Chancellor of the Exchequer, and Barons, or any two of them, may order Clerks and Officers of the Exchequer, to give in a Particular of the Rents and Certainties yearly set in Process to Sheriffs, and reduce and settle the same, with Regard had to the Value of the Rents of each County, and thereupon to be made and entred on Record in the Exchequer.

of the Treasury's Remembrancer, and Clerk of the Pipe, some Time before the last Day of *Michaelmas* Term then next following; and that, from Time to Time, the Sum and Sums of Money so reduced, ascertained and settled, shall be deemed and taken to be the Profers of each respective County, and the Rolls of Profers, from Time to Time, shall be made conformable thereunto; and the said Sum and Sums so reduced, ascertained and settled, as aforesaid, and no other, shall be paid by the said respective Sheriffs for their Profers, at the Days and Times, and in the Manner formerly used for Profers.

Sheriff le-
vyng
Debts, &c.
(except
Post-Fines)
due to the
Crown, by
Process of
the Pipe by
Levri fac.
to have
12 d. per
Pound for
the first
100 l. and
6 d. for
every 20 l.
above that
Sum; and
on Process
by *fi. fa.*
and *Extent*
to have 12
d. per
Pound for
the first
100 l. and
1 s. per
Pound a-
bove. Pro-
vided he
answer the
same on
his Ac-
counts by a Day to be fixed by Warrant of the Barons.

§. 3. And be it enacted by the Authority aforesaid, That from and after the ninth Day of *July*, in the Year of our Lord One thousand seven hundred and seventeen, all Sheriffs who shall levy any Debts, Duties, or Sums of Money whatsoever, except Post-Fines, due or hereafter to become due to the King's Majesty, his Heirs or Successors, by Process to them directed upon the Summons of the Pipe, or Green Wax, by *Levri Facias* out of the Court of Exchequer, shall, from Time to Time, for their Care, Pains and Charges, and for their Encouragement therein, have an Allowance upon their Accounts of twelve Pence out of every twenty Shillings, for any Sum not exceeding one hundred Pounds so by them levied or collected; and the Sum of six Pence for every twenty Shillings over and above the first one hundred Pounds; and for all Debts, Duties, and Sums of Money, (except Post-Fines) due, or to become due to his Majesty, his Heirs and Successors, by Process and *Fieri Facias*, and Extent, issuing out of any of the Offices of the Court of Exchequer, the Sum of one Shilling and six Pence out of every twenty Shillings, for any Sum not exceeding one hundred Pounds so by them levied or collected; and the Sum of twelve Pence only for every twenty Shillings over and above the first one hundred Pounds: Provided always such Sheriff shall duly answer the same upon his Account by the General Sealing Day of such Term in which he ought to be dismissed the Court, or in such Time to which he shall have a Day granted to finish his said Accounts, by Warrant signed by the Lord Chief Baron, or one of the Barons of the Coif of the said Court for the Time being, and not otherwise.

Sheriff not
obliged to
charge in
his Accounts

§ 4 And whereas by Virtue of an Act made in the 4th and 5th Years of the Reign of their late Majesties King *William* and

Queen Mary, for encouraging the apprehending of Highwaymen; and of one other Act made in the sixth and seventh Years of his said late Majesty King William the Third, to prevent Counterfeiting and Clipping the Coin of this Kingdom; and of one other Act made in the fifth Year of her late Majesty Queen Anne, for encouraging the apprehending of House-breakers, the respective Sheriffs of *England* and *Wales*, are obliged to pay the several Rewards of forty Pounds, as in those Acts is directed, upon the Convictions of Highwaymen, Clippers, Coiners or House-breakers, to such Person or Persons who shall bring to such Sheriff a Certificate under the Hand of the Judge or Justices before whom such Offenders were convicted, directing Payment thereof, under the Penalty of forfeiting to the Party entitled thereunto double the Sum so certified, with treble Costs of Suit; which said Reward of forty Pounds being so paid, as aforesaid, is by the said several Acts ordered to be allowed to such Sheriff upon his Account; and if there should not be remaining in the Hands of such Sheriff Monies sufficient for that Purpose, that in such Case the Surplusage occasioned thereby should be repaid to such Sheriff by the Lord High Treasurer, or the Commissioners of the Treasury for the Time being, out of the Revenue of the Crown, upon Certificate thereof from the Clerk of the Pipe, or by the Auditor of *Wales*, as by the said respective Acts may more at large appear: And whereas since the making of the said Acts it hath been found, that many Sheriffs have been put under great Difficulties and Inconveniences thereby, not only by reason of paying down great Sums of Money for the Rewards aforesaid, before the publick Revenue writ out to them in Process could be levied or collected by them, but also that by reason such Sheriff cannot have a Certificate of his Surplusage from the Clerk of the Pipe, or the Auditor of *Wales*, until he hath fully finished his Account, and be dismissed the Court; by which Means the Sheriff is kept a long Time out of his Money so disbursed for the Rewards aforesaid: Be it therefore enacted by the Authority aforesaid, That no Sheriff shall be obliged to bring or charge in his Accounts any Sum or Sums of Money to be paid for the Rewards above-mentioned, or any of them, from and after the ninth Day of July, One thousand seven hundred and seventeen, but shall and may immediately apply for the same to the Lord High Treasurer of *Great Britain*, or Commissioners of the Treasury for the Time being, who, upon inspecting a due Certificate of the Conviction of such Offender or Offenders, for which such Reward shall be ordered to be paid, as aforesaid, by Virtue of the said Acts, or any of them, together with the Receipts or Acquittances of the Parties entitled to receive the same, shall forthwith repay to such Sheriff or Sheriffs respectively, all such Monies so disbursed and paid, as

aforesaid, without any Fee or Reward whatsoever; any Thing in the aforesaid Acts, or any of them, contained, to the contrary thereof, in any wise notwithstanding.

No Sheriff or Under-Sheriff to be attached, &c. for not finishing his Accounts in Time, or for any Neglect relating thereto, but by Writ under the Exchequer-Seal, or by his Deputy, wherein such Sheriff or Under-Sheriff's Name shall be inserted, and his Offence expressed.

§. 5. And be it enacted by the Authority aforesaid, That no Sheriff or Under-Sheriff shall be attached or taken into Custody by any Officer of the Court of Exchequer, or other Person whatsoever, for not being apposed upon any Writ or Process for not finishing his Accounts in due Time, or for any Contempt or Neglect whatsoever relating to his Account, but by Writ under the Seal of the said Court of Exchequer, or by Warrant for that Purpose to be signed by the Lord Chief Baron, or one of the Barons of the Coif of the said Court of Exchequer for the Time being, to be executed by the Marshal of the said Court, or his Deputy; in which Warrant the Name of such Sheriff or Under-Sheriff shall be particularly inserted, and his Offence particularly specified and expressed.

If any Clerk, or other Person concerned in passing Sheriffs Accounts, shall hinder or retard the same, or any ways prevent his being apposed, and cast out of Court in due Time, or after Payment, or Tender of the Fees, *infra*, shall refuse or neglect to make out, or sign and inroll his *Quietus*, he shall make such Satisfaction to the Party grieved, as the Barons on Complaint shall order in a summary Way.

§. 6. And for preventing Delays and unnecessary Attendance of Sheriffs in passing their Accounts, be it enacted by the Authority aforesaid, That from and after the first Day of Michaelmas Term, in the Year of our Lord One thousand seven hundred and seventeen, if any Officer, Clerk, or other Person concerned in or about the passing of Sheriffs Accounts, shall wilfully retard or hinder any Sheriff in the passing of his Accounts, or by his wilful Neglect or Absence, or by other undue Means or Ways, prevent any Sheriff from being apposed or cast out of Court in due Time, or after Payment or Tender of his or their due Fees herein ascertained, shall refuse or neglect to inroll, make out, sign, and deliver his *Quietus* in due Time, in every such Case the Person so offending shall make such Recompence and Satisfaction to the Party aggrieved as shall be adjudged, ordered or decreed, by the Barons of the Court of Exchequer, upon Complaint thereof made and exhibited before them in such short and summary Way and Method as to them shall seem meet.

§. 7. And whereas it frequently happens that a Sheriff may disburse more Money for the Service of the Crown than (except for Chester, Lancaster, Durham, and the Welsh Counties) who shall be in Surplusage by any Disbursements for the King's Service, except the Rewards appointed by the Acts, *supra* Sec. 4. shall be obliged to take out a Record of such Surplusage, but may apply to the Lord Treasurer, who is to pay the same on producing the Clerk or the Pipe's Certificate thereof.

his

his whole Charge amounteth unto, by reason whereof such Sheriff must necessarily be in Surplusage upon his Account: And whereas such Surplusage cannot be obtained by the usual Course of the Exchequer, but by Record of Surplusage, which is very dilatory and expensive to the Sheriff: Be it therefore enacted by the Authority aforesaid, That from and after the first Day of *Michaelmas* Term aforesaid, if any Sheriff of any County in *England*, (except the Counties Palatine of *Chester*, *Durham* and *LANCASTER*, and the several Counties of *Wales*, which do not pass their Accounts before the Clerk of the Pipe) shall happen to be in Surplusage upon his Account, by reason of any Disbursements whatsoever by him made for the Service of his Majesty, his Heirs or Successors (other than for the Rewards of forty Pounds severally and respectively allowed and given by Virtue of the several Acts herein before mentioned, to such Persons as shall apprehend a Clipper, Coiner, Highwayman, or House-breaker) such Sheriff shall not be obliged to take out a Record of Surplusage for the same, but shall and may apply to the Lord High Treasurer of *Great Britain*, or to the Commissioners of the Treasury for the Time being, for the Payment of such Surplusage, who are hereby required and authorized to pay the same upon the Sheriff's producing a Certificate of such Surplusage from the Clerk of the Pipe, or his Deputy.

§. 8. And whereas great Inconveniencies have arisen by the Death of Sheriffs, during the Time of their Sheriffalty; be it enacted by the Authority aforesaid, That if any High-Sheriff of any County in *England* or *Wales* shall happen to die before the Expiration or Determination of his Year, or before he be lawfully superseded, in such Case the Under-Sheriff or Deputy-Sheriff by him appointed, shall nevertheless continue in his Office, and shall execute the same, and all Things belonging thereunto, in the Name of the said deceased Sheriff, until another Sheriff be appointed for the said County, and sworn in Manner as is herein after directed; and the said Under-Sheriff or Deputy-Sheriff shall be answerable for the Execution of the said Office in all Things, and to all Respects, Intents and Purposes whatsoever, during such Interval as the High Sheriff so deceased would by Law have been if he had been living; and the Security given to the High Sheriff so deceased by the said Under-Sheriff, and his Pledges, shall stand, remain; and be a Security to the King, his Heirs and Successors, and to all Persons whatsoever, for such Under-Sheriff's due Performance of his Office during such Interval.

Sheriff dying before his Office expired, his Under-Sheriff or Deputy, shall continue in Office, and execute the same in the deceased Sheriff's Name, till a new Sheriff sworn, and be answerable for the Execution thereof during such Interval as the

deceased Sheriff would have been; and the Security given by the Under-Sheriff to the deceased, for due Performance of his Office, is to continue during such Interval.

When a Sheriff by Exchequer-Process seizes or extends Goods or personal Estate for the King's Debts, and dies, or is superseded before a *Venditioni exponas* awarded, or Sale, and the subsequent Sheriff makes Sale, &c. The Exchequer-Court, if sitting, or if not, any Baron may settle and apportion the Fees or Poundage between the and Trouble

§. 9. And whereas it frequently happens that the Process issuing out of the Court of Exchequer, for levying Debts and Duties due to the Crown, may be in Part executed by a Sheriff before he be superseded, and afterwards in Part by the subsequent Sheriff, and no Provision hath hitherto been made for settling and adjusting the Distribution of the Fees and Poundage claimed and demanded by them in such Cases: Be it therefore enacted by the Authority aforesaid, That when and so often as any Sheriff shall, by Process out of the Court of Exchequer, seize or extend any Goods, Chattels, or personal Estate, into the Hands of his Majesty, his Heirs or Successors, for any Debts or Duties due to the Crown, and shall die, or be superseded before a Writ of *Venditioni exponas* be awarded to him for Sale of the same, or before such Sheriff hath made actual Sale thereof, and a Writ shall afterwards be awarded to a subsequent Sheriff, who by Virtue thereof shall make Sale or Disposition of such Goods, Chattels, and personal Estate, so seised or extended by such preceding Sheriff, as aforesaid, in such Case the Barons of the Court of Exchequer, if then sitting, and if not sitting, the said Barons, or any one of them, being of the Degree of the Coif, shall order, settle and apportion the Fees or Poundage due for such Seizure and Sale betwixt such preceding and subsequent Sheriffs, in such Manner and Proportions as to him or them shall seem meet, with Regard to the Expence and Trouble each respective Sheriff hath had or shall have in the Execution of the said Process.

None shall buy, sell, let, or take to farm any Office of Under-Sheriff, Deputy-Sheriff, Seal-keeper, County-Clerk, Shire-Clerk, Gaoler, Bailiff, or other Of-

fice pertaining to the Sheriff; nor contract for, promise, or grant for Money, &c. nor give, take, promise, or receive any Consideration by themselves or others for the same, or Forfeiture of 500 l. one half to the King, and the other to him that prosecutes in any Court at Westminster within two Years.

to buy, sell, let, or take to farm, the Office of Under-Sheriff, Deputy-Sheriff, Seal-Keeper, County-Clerk, Shire-Clerk, Gaoler, Bailiff, or any other Office or Place pertaining to the Office of High-Sheriff of any County or Shire in *England* or *Wales*, or to contract for, promise, or grant for Money, or other Reward or Benefit, the said Offices or Places, or any of them; nor to give, take, promise, or receive any other Consideration whatsoever for the said Offices, or any of them, directly or indirectly, by themselves, or any Person in Trust for them, or for their Use; and whosoever shall offend therein, shall forfeit the Sum of five hundred Pounds, a Moiety whereof to his Majesty, his Heirs and Successors, and the other Moiety thereof to such Person or Persons as shall sue for the same, to be recovered by Action of Debt, Bill, Plaint or Information, in any of the Courts of Record at *Westminster*, in which no Essoin, Protection, or Wager of Law shall be allowed, nor any more than one Impar lance: Provided, That such Suit be commenced within two Years after such Offence committed, and not otherwise.

§. 11. Provided, That nothing in this Act before contained shall any ways hinder or prevent such High-Sheriff from constituting and appointing an Under-Sheriff, or Deputy-Sheriff, to act in his stead, as by Law he may and ought to do; nor to hinder the Under-Sheriff, in case of the High-Sheriff's Death, when he acts as High-Sheriff, from constituting or appointing a Deputy, which he is hereby impowered to do; nor to hinder, prevent, or abridge such Sheriff, or Under-Sheriff, from demanding, taking or receiving the just and lawful Fees and Perquisites of the Office of Sheriff, or any Place or Employment pertaining thereunto, or for taking Security for the due answering the same; nor to discharge, hinder or prevent such Under-Sheriff, Deputy-Sheriff, Seal-Keeper, County-Clerk, Shire-Clerk, Gaoler, Bailiff, or other Person having or executing any Place or Office under such Sheriff, from accounting to the High-Sheriff for all such just and lawful Fees and Perquisites as shall by them, or any of them, be taken and received in their respective Offices, Places or Employments, nor for giving Security so to do; nor to hinder or prevent the High-Sheriff from allowing or securing such Salary or Recompence to his Under-Sheriff, Deputy-Sheriff, Seal Keeper, County-Clerk, Shire-Clerk, Gaoler, Bailiff, or other Officer, for the Execution of the said Offices,

But nothing shall hinder a Sheriff from appointing an Under-Sheriff, or Deputy-Sheriff, nor an Under-Sheriff acting as High-Sheriff on his Death, &c. from appointing a Deputy, nor from taking the Fees of their Office, or of any Place or Employment pertaining

thereto, or taking Security for answering the same; nor discharge any Officer, in *Secl. 10.* from accounting to the Sheriff for Fees, &c. received, or giving Security so to do; nor hinder the Sheriff from allowing Salaries to the Under-Sheriff, and other Officers, for executing their Offices, nor any of them, from receiving the same.

Places, or Employments, or any of them, as to him shall seem meet; nor to hinder or prevent the Under-Sheriff, Deputy-Sheriff, Seal-Keeper, or other Officer or Person afore-mentioned, from taking and receiving such Salary or Recompence for his or their Pains and Services therein.

Besides the Penalties in the Acts of 22 & 23 Car. 2. for Better Recovery of Fines and Forfeitures to the King made perpetual by 4 & 5 W. & M. The Barons may amerce Clerks of Assizes, of the Peace, of Commissioners of Sewers, Clerks of the Market, Town-Clerks, &c. refusing or neglecting to return Eftreats into the Exchequer, according as the said Acts direct. And may cause such Amerciaments to be levied as usual.

§. 12. And for the more effectual enforcing and obliging the respective Clerks of Assizes, Clerks of Peace, Clerks of the Commissioners of Sewers, Clerks of the Market, Town-Clerks, or other Persons to whom it doth or may belong to make Returns of Eftreats into the Court of Exchequer, to make out and deliver their respective Eftreats, Duplicates, Certificates and Schedules, in due Time, so that the Sheriff may not be hindered or retarded in the passing his Account for Want of the said Eftreats, according to the Direction, Purport and Intent of an Act made in the two and twentieth and three and twentieth Years of the Reign of his late Majesty King Charles the Second, intituled, *An Act for the better and more certain Recovery of Fines and Forfeitures due to his Majesty*, and made perpetual by an Act made in the fourth and fifth Years of the Reign of their late Majesties King William and Queen Mary; be it enacted by the Authority afore said, That over and above the Penalties mentioned in the said Acts, or either of them, it shall and may be lawful to and for the Barons of the Court of Exchequer, from Time to Time, to amerce such Clerk of the Assize, Clerk of the Peace, Clerk of the Commissioners of Sewers, Clerk of the Market, Town-Clerk, or other Person, to whom it doth or may belong to make Returns of Eftreats into the said Court of Exchequer, as afore said, for refusing, neglecting, or omitting to perform, and do his or their Duty in returning the said Eftreats, at the Times and according to the Direction, Purport and Intent of the said two Acts, and to cause the said Amerciaments to be levied and answered by such Ways and Means, and in such Manner, as other Amerciaments set in the said Court may or have been used to be done.

No Sheriff, or other employed in levying Debts to the Crown by Exchequer-Process,

§. 13. And for preventing of Oppressions and Injuries which may happen to his Majesty's Subjects, by the Abuse of Sheriffs, Bailiffs, and others employed in levying and collecting any Debts, Duties, or Sums of Money, due, or hereafter to become due to his Majesty, his Heirs or Successors, by

shall take any Fee or Reward for levying or collecting the same, except 4 d. only for an Acquittance, which the Officer receiving is to give to the Party paying, and account for the same to the Sheriff, or his Deputy, and may take an Acquittance from the Sheriff, &c. without Fee. And the Sheriff is to answer it on his Account in the Exchequer.

Process

Process of the Court of Exchequer; be it enacted by the Authority aforesaid, That no Sheriff, Under-Sheriff, Bailiff, or other Person employed in levying or collecting any of the said Debts, Duties, or Sums of Money, shall take, ask, or receive any Fee, Gratuity or Reward whatsoever, of the Person or Persons liable to pay the said Debts, Duties, or Sums of Money, or of any other Person, for or upon Pretence of such levying or collecting, except the Sum of four Pence only for an Acquittance for such Sum as shall be so levied or collected; which Acquittance such Officer is hereby required to give and deliver to the Person upon, or from whom such Debt shall be levied, collected, or received; and the Bailiff, or other Person receiving such Debt or Sum of Money, shall from Time to Time answer and account for the same to the Sheriff, or his Deputy, and may require an Acquittance also from such Sheriff, or his Deputy, for such Sum, who are hereby required to give the same, without any Fee or Reward; of and from such Debts or Sums of Money so levied, collected or received, as aforesaid, the said Sheriffs, and every of them, shall effectually discharge the said Debtors and Persons respectively, by totting and answering the same to his Majesty, his Heirs and Successors, upon their respective Accounts in the Exchequer.

§. 14. And in case any Sheriff, Under-Sheriff, or Deputy-Sheriff shall nichil, or not duly answer to the Crown any Debt or Sum of Money so levied, collected or received, such Sheriff, Under-Sheriff, or Deputy-Sheriff, for every such Offence shall forfeit treble Damages to the Party aggrieved, and double the Sum nichilled, or not duly answered, as aforesaid; which said Damages and Penalty shall be ordered, decreed, and given to the Person aggrieved in the Court of Exchequer, upon Complaint and Proof of such Abuse, as aforesaid, made and exhibited before the Barons of the said Court, in such short and summary Way and Method, as to them shall seem meet: And in case any Sheriff, Under-Sheriff, Deputy-Sheriff, Bailiff, or other Person, shall presume to demand, take, or receive any Sum or Sums of Money whatsoever, be the same more or less, of any Person whatsoever, from whom any Debt or Sum of Money is, or shall be due and payable to the Crown, by Process out of the Court of Exchequer, for or in Respect, or upon Pretence of executing the said Process,

And if a Sheriff, or not answer such Debts collected, he forfeits for each Offence treble Damages to the Party, and double what is so nichil'd, or not answered, to be ordered by the Court of Exchequer,

on Complaint and Proof, in a summary Way; and if a Sheriff or other demands or takes any Money for executing such Process, or (as Fees) for collecting such Debts, or for not levying, or forbearing to levy any Debt to the Crown so written in Process, and thereof convicted, he is guilty of Extortion, and forfeits treble Damages and Costs to the Party grieved, and double the Sum extorted, to be ordered by the Exchequer in a summary Way on Complaint and Proof, if convicted within two Years after the Offence.

or for or in Respect, or upon Pretence of Fees due to them, or any of them, for collecting or receiving the same, contrary to the true Intent and Meaning of this Act; or if any of the Officers, or Persons aforesaid, shall demand, take and receive any Sum or Sums of Money whatsoever, for not levying, or forbearing to levy any Debts, Duties, or Sums of Money which are or shall be due to his Majesty, his Heirs and Successors, and written out to them, or any of them, by the Process aforesaid, in all and every such Case, every Person so offending, and thereof lawfully convicted, shall be adjudged, deemed, and taken to be guilty of Extortion, Injustice, and Oppression, and all and every such Person and Persons, being thereof lawfully convicted, shall forfeit for every such Offence treble Damages and Costs to the Party aggrieved, and double the Sum so extorted; All which Damages and Penalties shall be ordered, decreed, and given by the Barons of the Court of Exchequer, upon Complaint and Proof of such Extortion made and exhibited before them, in such short and summary Way and Method as to them shall seem meet, as aforesaid: Provided such Conviction be had and made within two Years after such Offence committed, and not otherwise.

But the Sheriff may take such Poundage and Allowance as given by this Act, or by Warrant of the Lord Treasurer, or Chancellor or Barons of the Exchequer, for any extraordinary Service to the

§. 15. Provided, that nothing in this Act contained shall be construed to deprive any Sheriff of such Poundage or Allowance as is allowed and given to them by Virtue of this Act, or of such Poundage, Allowance or Reward, as may hereafter be made, allowed, and given to them, or any of them, by Warrant or Order from the Lord High Treasurer, or Commissioners of the Treasury, Chancellor of the Exchequer, or Barons of the Court of Exchequer for the Time being, for or in Respect of any extraordinary Service to the Crown that may happen to be performed by them, or any of them: but that the said Sheriffs shall and may enjoy the full Benefit and Advantage of such Poundage, Allowance and Reward, without any Impeachment or Molestation whatsoever; any Thing in this Act contained to the contrary thereof in any wise notwithstanding.

Crown performed by him.

All Orders and Decrees made by the Barons of the Exchequer for Costs, Damages, or Penalties by this Act ordered in a summary Way, to have the same Force and Effect as any other Order or Decree of the Court; and such Costs, &c. raised and levied by such Process as is there used to enforce a Compliance with other Orders or Decrees.

§. 16. And be it enacted by the Authority aforesaid, That whatever Orders or Decrees shall be made by the Barons of the Court of Exchequer, for Costs, Damages and Penalties, by this Act ordered in a summary Way, to have the same Force and Effect as any other Order or Decree of the Court; and such Costs, &c. raised and levied by such Process as is there used to enforce a Compliance with other Orders or Decrees.

in the Cases afore-mentioned, or any of them, or in any other Case in this Act hereafter mentioned, by Virtue and in Pursuance of this Act, in such short and summary Way and Method as is herein before directed and prescribed, shall have the same Effect, Force and Virtue, to all Intents and Purposes, as any other Order or Decree of the same Courts; and the said Costs, Damages and Penalties shall be raised, levied and obtained, by such Process, Ways and Methods as are used in the said Court, to enforce a Compliance with any other Orders or Decrees of the same Court.

§. 17. And for ascertaining the Fees for executing of Writs of *Elegit*, so far as the same relate to the extending of real Estates, and for ascertaining the Fees for executing of Writs of *Habere facias Possessionem aut Seisinam*, be it enacted by the Authority afore said, That from and after the last Day of *Michaelmas* Term, in the Year of our Lord one thousand seven hundred and seventeen, it shall not be lawful for any Sheriff, Under-Sheriff, Deputy-Sheriff, or their Bailiffs, or for the Bailiff of any Franchise or Liberty, or any of them, by Reason or Colour of their Office or Offices, or by Reason or Colour of their executing of any Writ or Writs of *Habere facias Possessionem aut Seisinam*, to demand, ask, or receive, any other or greater Consideration, Fee, Gratuity or Reward than is hereafter mentioned (which shall be lawful to be demanded and taken) that is to say, the Sum of twelve Pence for every twenty Shillings of the yearly Value of any Manor, Messuage, Lands, Tenements and Hereditaments, whereof Possession or Seisin shall be by them, or any of them given, where the whole exceedeth not the yearly Value of one hundred Pounds, and the Sum of six Pence only for every twenty Shillings *per Annum*, over and above the said yearly Value of one hundred Pounds.

Possession or Seisin shall be given, where the whole exceeds not 100 l. yearly Value.

No Sheriff, Under-Sheriff, Deputy, or Bailiff of any Franchise, &c. shall for executing a *Hab. fac. Possessionem aut Seisinam*, demand or receive above 12 d. per lb. of the yearly Value of any Manor, Messuage, Lands, Tenements or Hereditaments, whereof any *Ca. Sa.* *per Annum*

§. 18. And whereas it often happens that small Sums only are remaining due upon Judgments, Statutes and Recognizances, given, acknowledged, and entered into, for great Sums and Penalties, and nevertheless in these Cases upon executing

Judgment, Statute or Recognizance (whereof Part is paid) for any greater Sum than what remains due, and claim'd by the Plaintiff thereon, who is to mark the same on the Back of the Writ before 'tis delivered to the Sheriff; any Sheriff, Under-Sheriff, Deputy, Bailiff, &c. offending, and lawfully convicted, is guilty of Extortion, &c. and for each Offence forfeits to the Party grieved treble Damages, and double what is so extorted, to be ordered by the Court which issued the Writ, on Complaint and Proof in a summary Way; and also 200 l. one half to the King, and the other to the Prosecutor, in any Court at *Westminster*, it sued within two Years after the Offence.

Poundage not to be taken for executing any *Ca. Sa.* upon any

Of the Office of Sheriffs,

of Writs of *Capias ad satisfaciendum*, the Sheriff demands and takes for his Fees Poundage for the whole Money for which such Judgments, Statutes or Recognizances, are entred and acknowledged; which Poundage often far exceeds the Debts due to the Plaintiffs in such Writs: For remedying of which Grievance and Inconvenience, be it enacted by the Authority aforesaid, That from and after the said last Day of *Michaelmas* Term, one thousand seven hundred and seventeen, Poundage shall in no Case be demanded or taken, upon executing of any Writ of *Capias ad satisfaciendum*, or upon charging any Person in Execution by Virtue of such Writ for any greater Sum than the real Debt *bona fide* due and claimed by the Plaintiff amounteth unto; which Sum the Plaintiff shall be, and is hereby obliged to mark and specify on the Back of such Writ, before the same be delivered to the Sheriff to be executed; and in case any Sheriff, Under-Sheriff, Deputy-Sheriff, Bailiff, or other Person shall offend against the true Meaning hereof, by taking any greater Fees, Gratuity or Reward, than is herein before allowed, every such Person so offending as aforesaid, and being thereof lawfully convicted, shall be adjudged, deemed and taken, and is and are hereby adjudged, deemed and taken to be guilty of Extortion, Injustice and Oppression; and all and every such Person and Persons, being thereof lawfully convicted, as aforesaid, shall, for every such Offence forfeit to the Party aggrieved treble Damages, and double the Sum so extorted; which said Damages and Penalties shall be ordered, decreed, and given to the said aggrieved Party by the Court out of which such Writ or Writs issued, upon Complaint and Proof of such Extortion made and exhibited before the Judges of such Court, in such short and summary Way and Method as to them shall seem meet; and over and above the said Damages and Penalties, every such Person so offending and convicted, as aforesaid, shall forfeit the Sum of two hundred Pounds; one Moiety whereof shall be to the King's Majesty, his Heirs and Successors, and the other Moiety thereof to such Person or Persons as shall so sue for the same, to be recovered by Action of Debt, Bill, Plaint, or Information, in any of the Courts of Record at *Westminster*, in which no Essoin, Protection, or Wager of Law shall be allowed, nor any more than one Impar lance: Provided such Suit be commenced within two Years after such Offence committed, and not otherwise: And provided likewise, That no Person be sued or prosecuted by Virtue of this Act, for any Offence of this Kind committed before the said last Day of *Michaelmas* Term, one thousand seven hundred and seventeen.

§ 19. And be it enacted by the Authority aforesaid, That instead of the Oath usually administered to Sheriffs at the entering upon their Offices, the following Oath shall be taken by them, and each of them respectively, (excepting the Sheriffs of

of the several Counties in Wales, and of the County-Palatine of Chester; viz.

The High Sheriff's Oath.

I A. B. do swear, That I will well and truly serve the King's Majesty in the Office of Sheriff of the County of, &c. and promote his Majesty's Profit in all Things that belong to my Office, as far as I legally can or may; I will truly preserve the King's Rights, and all that belongeth to the Crown; I will not assent to decrease, lessen, or conceal the King's Rights, or the Rights of his Franchises; and whensoever I shall have Knowledge that the Rights of the Crown are concealed or withdrawn, be it in Lands, Rents, Franchises, Suits or Services, or in any other Matter or Thing, I will do my utmost to make them be restored to the Crown again; and if I may not do it my self, I will certify and inform the King thereof, or some of his Judges; I will not respite or delay to levy the King's Debts for any Gift, Promise, Reward or Favour, where I may raise the same without great Grievance to the Debtors; I will do Right as well to Poor as to Rich in all Things belonging to my Office; I will do no Wrong to any Man for any Gift, Reward, or Promise, nor for Favour or Hatred; I will disturb no Man's Right, and will truly and faithfully acquit at the Exchequer all those of whom I shall receive any Debts or Duties belonging to the Crown; I will take nothing whereby the King may lose, or whereby his Right may be disturbed, injured, or delayed; I will truly return, and truly serve all the King's Writs, according to the best of my Skill and Knowledge; I will take no Bailiffs into my Service but such as I will answer for, and will cause each of them to take such Oaths as I do, in what belongeth to their Business and Occupations; I will truly set and return reasonable and due Issues of them that be within my Bailiwick, according to their Estate and Circumstances, and make due Panels of Persons able and sufficient, and not suspected or procured, as is appointed by the Statutes of this Realm; I have not sold, or let to farm, nor contracted for, nor have I granted or promised for Reward or Benefit, nor will I sell, or let to farm, nor contract for, or grant for Reward or Benefit, by my self, or any other Person for me, or for my Use, directly or indirectly, my Sheriffwick, or any Bailiwick thereof, or any Office belonging thereunto, or the Profits of the same, to any Person or Persons whatsoever; I will truly and diligently execute the good Laws and Statutes of this Realm; and in all Things well and truly behave my self in my Office for the Honour of the King, and the Good of his Subjects, and discharge the same according to the best of my Skill and Power.

The High Sheriff's New Oath.

So help me God.

Of the Office of Sheriffs,

S. 20. And be it enacted by the Authority aforesaid, That the following Oath shall be taken by all Under-Sheriffs of any County or Counties in *South-Britain*, except the several Counties of *Wales*, and County-Palatine of *Chester*, before they enter upon the Execution of their Offices respectively; viz.

The Under-Sheriff's Oath.

The Under-Sheriff's new Oath.

I A. B. do swear, That I will well and truly serve the King's Majesty in the Office of Under-Sheriff of the County of, &c. and promote his Majesty's Profit in all Things that belong to the said Office, as far as I legally can or may; I will preserve the King's Rights, and all that belongeth to the Crown; I will not assent to decrease, lessen, or conceal the King's Rights, or the Rights of his Franchises; and whensoever I shall have Knowledge that the Rights of the Crown are concealed or withdrawn, be it in Lands, Rents, Franchises, Suits, or Services, or in any other Matter or Thing, I will do my utmost to make them be restored to the Crown again; and if I may not do it my self, I will certify and inform some of his Majesty's Judges thereof; I will not respite or delay to levy the King's Debts, for any Gift, Promise, Reward or Favour, where I may raise the same without great Grievance to the Debtors; I will do Right as well to Poor as to Rich, in all Things belonging to my Office; I will do no Wrong to any Man for any Gift, Reward or Promise, nor for Favour or Hatred: I will disturb no Man's Right, and will truly and faithfully acquit at the Exchequer all those of whom I shall receive any Debts, Duties, or Sums of Money belonging to the Crown; I will take nothing whereby the King may lose, or whereby his Right may be disturbed, injured, or delayed; I will truly return, and truly serve all the King's Writs to the best of my Skill and Knowledge; I will truly set and return reasonable and due Issues of them that be within my Bailiwick according to their Estates and Circumstances; and make due Panels of Persons able and sufficient, and not suspected or procured, as is appointed by the Statutes of this Realm; I have not bought, purchased, or taken to farm, or contracted for, nor have I promised or given any Consideration, nor will I buy, purchase, or take to farm, or contract for, promise, or give any Consideration whatsoever, by my self, or any other Person for me, or for my Use, directly or indirectly, to any Person or Persons whatsoever, for the Office of Under-Sheriff of the County of, &c. which I am now to enter upon and enjoy, nor for the Profits of the same, nor for any Bailiwick thereof, or any other Place or Office belonging thereunto; I have not sold, nor contracted for, or let to farm, nor have I granted or promised for Reward or Benefit, by my self, or any other Person for me, or for my Use, directly or indirectly, any Bailiwick thereof, or any other Place or Office belonging thereunto; I will truly and diligently execute the good Laws and Statutes of this Realm; and in all Things well and truly behave my self in my said Office for his Majesty's Advantage, and for the Good of his Subjects,

and

and discharge my whole Duty according to the best of my Skill and Power:

So help me God.

So help me God.

§ 21. Which said Oath is hereby ordered and enacted to be administered and given by such Commissioners as shall be named and authorized to administer the foregoing Oath to the High Sheriff in the Country, when and so often as a Commission or *Writ* shall be sued forth of the proper Court for that Purpose, or by the Barons of the said Court, or one of them, when the said Sheriffs desire to be sworn in Town.

How and by whom to be administered.

§ 22. Provided that the Sheriffs of *Wales*, and the County-Palatine of *Chester*, shall not be obliged to take the aforesaid Oaths, or either of them, but shall still take the usual and accustomed Oaths as they have formerly done, (except the Words following, viz.) *Ye shall be dwelling in your own proper Person within your Bailiwick for the Time ye shall continue in the same Office (except ye be otherwise licensed by the King.)* which Words shall hereafter be left out of the said Oaths.

Sheriffs of *Wales* and *Chester* to take the old Oath with an Omission.

§ 23. Provided that this Act, or any Thing therein contained, shall not extend to the Sheriffs of *London* and *Middlesex*, the County-Palatine of *Durham*, the County of *Westmorland*, or to the Sheriffs of any City or Town, being a County of it self, or to any of them, as to their placing in or disposing of any of the Offices, Places, or Employments of their Under-Sheriffs, County-Clerks, Bailiffs, or other Officers, or their Continuance therein.

This Act nor to extend to Sheriffs of *London* and *Middlesex*, or *Durham*, or *Westmorland*, or of any City or Town, being a County, as to their disposing of the Offices of Under-Sheriffs, County-Clerks, Bailiffs, &c.

or Town, being a County, as to their disposing of the Offices of Under-Sheriffs, County-Clerks, Bailiffs, &c.

§ 24. And whereas by an Act made in the four and five and thirtieth Years of King Henry the Eighth, Intituled, *An Act for certain Ordinances in the King's Majesty's Dominions, and Principality of Wales*, it is, amongst other Things, enacted, That there shall be Sheriffs in every of the twelve Shires of *Wales*, yearly appointed by the King's Majesty; and that the said Sheriffs shall yearly account before such the King's Auditor or Auditors, as shall be assigned and appointed by the King's Majesty for his Dominions of *Wales*; be it therefore enacted and declared by the Authority aforesaid, That the said Sheriffs of *Wales* shall not be compelled to appear to be appoyed in his Majesty's Court of Exchequer, but shall account before his Majesty's said Auditor, or the Auditors in the Principality of *Wales*, and not elsewhere; any Law, Statute, Custom or Usage, to the contrary notwithstanding: And that the *Quietus* of the said Sheriffs, under the Auditor's

Sheriffs in *Wales* to account before Auditors of *Wales*, as by Stat. 34 & 35 H. 8. and have their *Quietus* sign'd by them.

Hand, or his Deputy, shall be a sufficient Discharge for the said Sheriff in that Behalf.

Sheriffs of
Cheshire,
Lancashire
and Durham,
to account
before the
Auditors
of those
Counties,
as by Stat.
13 & 14
Edw. 1. and
the Statute
in that behalf
made, &c.
from those
Auditors.

§. 25. And whereas by the Act made in the thirteenth and fourteenth Years of the Reign of King Charles the Second, Intituled, *An Act for preventing the unnecessary Charge of Sheriffs, and for Ease in settling their Accounts*, It was, amongst other Things, provided, That the Sheriffs of the County of Chester, Lancashire and Durham, being Counties-Palatine, as to their Manner of accounting, should account before the respective Auditors of the said Counties only, and not elsewhere, be it enacted and declared by the Authority aforesaid, That the respective Auditors of the said Counties, or their Deputies, by Virtue of their respective Offices shall and may take, state and allow the Accounts of the Sheriffs of the said respective Counties, and appose the said Sheriffs respectively touching the Execution of the Process to them respectively directed, called the King's Process; and that the said respective Sheriffs, upon such their Accounts, touching the Premises, shall and may have, sue forth, and obtain their respective Quittance and Discharge from the said respective Auditors, or their Deputies, according to their ancient Course and Usage of the Sheriffs of the said Counties-Palatine only.

Sheriffs of
Covint. Cess.
to account
as formerly
before the
Mayor of
that City,
for all
Matters

§. 26. And be it further enacted by the Authority aforesaid, That the Sheriffs of the City and County of the City of Chester, and their Successors, shall and may account, as formerly, before the Mayor of the same City, and his Successors, for the Time being, for and touching all such Matters and Things as have been heretofore granted from the Crown to the same City in and by their several and respective Charters.

But for
other Mat-
ters not so
granted,
before the
Auditor of
the County,
as the Sher-
iffs of that
County are
appointed to
do.

§. 27. And as for and concerning all other Matters and Things whatsoever, not mentioned to be granted in or by the Charters of or to the same City, and for which the Sheriffs of the same City are, or ought to be accountable, to his Majesty, his Heirs and Successors, it is hereby further declared and enacted by the Authority aforesaid, That the Sheriffs of the said City of Chester, and their Successors, shall at all Times hereafter account for and concerning the same, before, and be apposed by, and obtain their Quittance and Discharge from the Auditor of the County of Chester, or his Deputy, in like Manner as the Sheriffs of the said County of Chester are by this Act appointed to do, and not elsewhere, or in any other Manner whatsoever.

The SCHEDULE or LIST in the Act mentioned, viz.

A SCHEDULE of FEES to be paid for passing the Patents of the several Sheriffs of England and Wales.

The Charge taken and received in the Court of Chancery on Account of suing out of the Patents of the several Sheriffs of England and Wales, that are sued out there, for each the Particulars are as followeth:

T HE King's Duty for Stamps,	l.	s.	d.
To the Serjeant-Trumpeter,	—	12	06
To the Master of the Rolls,	03	—	—
Signing the Docket,	—	08	08
Hanaper Fee,	—	04	—
	—	15	—
The Six Clerks Fee on the Patent, Writ of Affittance, Writ of Discharge, and <i>Dedimus Potestatem</i> ,	01	07	—
For ingrossing the Patent, Writ of Affittance, Writ of Discharge, <i>Dedimus Potestatem</i> , the three Oaths, the Docket-Parchment, and attending the sealing the Patent,	01	14	04
The Recognizance and Duty in a <i>Welsh</i> Patent, more,	—	03	06

A SCHEDULE of FEES to be paid by the Sheriffs of England and Wales for passing their Accounts.

Fees to be paid to the Clerk of the Pipe at the Apposal of Sheriffs.

C Ant' Cumber'	l.	s.	d.
	01	13	04
	01	13	04
			Esbor

	l.	s.	d.
Ebor'	05	—	—
Hunt'	01	06	08
Lond' and Mid'sex	02	—	—
Lincoln	02	13	04
Monmouth	01	13	04
Northumber'	01	13	04
Rutland	00	00	00
Westmor'	01	06	08
The rest of the Counties of England, each,	02	—	—

Fees to be paid to the Clerk of the Peace for the Allowance of Justice Wages in the Counties following.

	l.	s.	d.
Antab' Hunt'	00	00	00
Cumb'	00	00	00
Ebor'	00	00	00
Kent	00	00	00
Lond' Mid'sex	00	00	00
Monmouth	00	00	00
Northumber'	00	00	00
Rutland	00	00	00
Westmor'	00	00	00
The rest of the Counties of England, each,	00	00	00

Casual Fees to the Clerk of the Peace for the Allowance of Justice Wages in the Counties following.

	l.	s.	d.
Ebor'	00	00	00
Lond' Mid'sex	00	00	00
Lincoln	00	00	00
The rest of the Counties of England, if any such Allowance be made,	00	00	00
For setting of a Seizure or Debt by Petition, or Judgment of Court, when it happens,	00	00	00
For Allowance of a Record of Surpluses for the first five Pounds,	00	00	00
For every other five Pounds,	00	00	00

Fees to be paid to the Clerk of the Pipe for the several Cities and accounting Towns for their whole Account, and Quietus thereupon.

Civit' Bristol	} of each	10
Civit' Glouc'		10
Civit' Ebor'		10
Vil' Novi. Castr.		10
Civit' Canmar'		10
Civit' Coventry	} of each	10
Civit' Exon'		10
Civit' Litch'		10
Civit' Lincoln		10
Civit' Norwic'		10
Vil' Kingst' super		10
Hull		10
Vil' Nor'		10
Vil' Pool		10
Vil' South'ton		10

Fees to be paid to the Secondaries and others the Sworn Clerk in the said Office, at the Apposals of Sheriffs at the coming into their Account, and writing their annual Books, together with the Viscontels of the Foot and Charge of their whole Account.

County	Rate	Value	Rate	Value
Beds	10	10	10	10
Berks	10	10	10	10
Bucks	10	10	10	10
Cant' Hunt	10	10	10	10
Cornub	10	10	10	10
Cumbr	10	10	10	10
Derb	10	10	10	10
Devon	10	10	10	10
Dorset	10	10	10	10
Essex	10	10	10	10
Ebor	10	10	10	10
Glouc	10	10	10	10
Herefs	10	10	10	10
Hert	10	10	10	10
Kent	10	10	10	10
Lincoln	10	10	10	10
Leic	10	10	10	10

	l.	s.	d.
Don' Mid'lex, two Sugar Loaves, and	04	—	—
Monmouth	03	—	—
Norff	03	13	04
North'ton	04	10	—
Northumber'	04	13	04
Nott'	05	10	—
Oxon'	06	—	—
Ruti'	03	06	08
Surr'	07	13	04
Suffex	08	—	—
Salop	07	13	04
Suff	09	08	04
South'ton	02	—	—
Staff'	04	16	08
Somerf'	08	—	—
Westmori'	08	—	—
Warr'	08	—	—
Wigorn'	08	—	—
Wilts	08	—	—

Fees for casting out of Court, and for Quorum, &c.

Badd'	06	06	06
Bucks'	06	06	06
Berks'	06	06	06
Can't Hunt	04	13	04
Cornub'	04	13	04
Cumbr'	04	13	04
Derb'	05	06	05
Devon	08	06	08
Dors'	06	13	04
Essex	11	06	11
Ebor'	23	06	08
Glouc'	07	06	06
Heref'	06	13	04
Hert'	06	13	04
Kant'	11	13	04
Lincoln	06	13	04
Delt'	08	06	08
Lon' Mkt	04	13	04
Monmouth	03	13	04
North'on	07	06	07
Norr'	06	06	06
Nor'	04	13	04
Northumb'	04	13	04

	1.	2.	3.
Oxon	08	06	08
Rutl	02	—	—
Staff	06	13	04
Surr	05	16	08
Suffex	05	04	08
Salop	05	04	08
Suff	05	04	08
South'ton	05	04	08
Somerset	05	04	08
Westmor	05	04	08
Warr	05	04	08
Wigorn	05	04	08
Wilts	05	04	08

Fees of Sheriffs for Cities and accounting Towns.

	1.	2.	3.
Civit' Bristol	03	06	08
Civit' Cantuar	02	13	04
Civit' Ebor	05	—	—
Civit' Coventry	05	04	08
Civit' Exon	05	04	08
Civit' Gloce	05	04	08
Civit' Lincoln	05	04	08
Civit' Litch	05	04	08
Civit' Norwic	05	04	08
Civit' Wigorn	05	04	08
Vil' Kingston super Hull	03	06	08
Vil' Nott	02	—	—
Nov' Castrum	03	13	04
Vil' Pool	05	04	08
Vil' South'ton	05	04	08

Memorandum, The Sheriff of the County Palatine of Chester and Lancaster do hereby certify that the Clerk of the Peace, before the respective Auditors of these Counties; but their Books being sent every Year, and Certificates made (of what they take in Charge) to the Auditor, the following Fees are to be taken by the Clerk of the Peace and the sworn Clerks for these Counties, viz.

	1.	2.	3.
Chester	02	03	04
Lancast	04	06	08

80 00 00
— — —
10 11 00
80 00 00
Fees to be paid to the first Secondary.

FOR allowing the Sheriff's Tallies of Pro-
fer in each County,
In each City and Town,
Making up the Sheriff's Sum containing his
whole Charge in York,

Lond' Midd'sex,

For the rest of the Counties, each

Allowing a Talley de remanente Compt or any o-
ther Talley de Sol in his Account, when
such happen,

For charging a Post Scrow, which rarely hap-
pens,

80 00 00
— — —
40 11 00
— — —

To the second Secondary.

FOR drawing down a Debt received by De-
bit, or levied by Writ of Fieri Facias
from either of the Remembrancer's Office
upon the Scrow Back,
If an extraordinary Length,

80 00 00
— — —
80 00 00
— — —
40 11 00
— — —

To the Portubag.

FOR ingrossing the Scrow of green Wax of
the Sheriff of the County of York,
Lond' Midd'sex,

The rest of the Counties of England, each

For the accounting Towns and Cities, each

Before the respective Justices of those Counties, but their Fees

Casual and Accidental Fees to the sworn Clerks in their
respective Assignments, viz.

FOR a Constat of a Seizure or Debt in order
to be ruled or discharged,
For settling of a Seizure or Debt upon a She-
riff's Account, by Petition or Judgment of
Court, when it happens,

Filing

Com' Pal' Cester'
Com' Pal' Lang'

To be paid to the Bagman of the Office at the Appofal of the Sheriffs

Of England, in each County, two Shillings and
fix Pence, and the casting out,
And for each City and accounting Town,

Fees to be paid to the Comptroller of the Pipe.

FOR Appofal of Lond', Midd'sex and York, each 02 — —
For Appofal of Surrey, Suffex, Rutland and
Westmorland, each — — —
For Appofal of every other County, — — —
For calling out of Lond', Midd'sex and York, each 02 — —
For calling out of Surrey, Suffex and Rutland, each — — —
For calling out of every other County, — — —
For Return of Summons for London, Middlesex
and York, each — — —
For Return of every other Summons, — 02 06
For Petitions, which seldom happen, — 02 06

The Fees to be taken by the three Clerks of the Comptroller
of the Pipe in passing Sheriffs Accounts

	Appofals.	Casting out.
	l. s. d.	l. s. d.
Bedd' } each	01 02 06	10
Here' } each	10	10
North'gon' } each	10	10
Surr' } each	10	10
Rutld' } each	10	10
Lond', Midd'sex	10	10
Cambr'	10	10
Heref'	10	10
Leic'	10	10
Norr'	10	10
Nott'	10	10
Staff'	10	10
War'	10	10
Suffex	10	10

To him for every other County of England, except Lancaster and Durham, and the several Counties of Wales, which give no Security in the Exchequer.	10	00
To the Attorney for making the Recognizance, attending the Baron, entering and inrolling the Recognizance, making the <i>Fiat</i> , and Duty for the same, and filing the Warrant of Attorney.	18	00
Upon the Appofal of every Sheriff upon the Process returnable in Easter Term to the Deputy-Remembrancer,	05	00
To the Attorney that receives and files the Writs, and attends the Appofals of the Sheriffs,	04	04
The like upon the Process returnable in Michaelmas Term,	09	04
For making the Certificate when the Sheriff enters upon his Account of what Seizures are by him made upon the Process returned in that Office during his Year,	04	04
Treasurer's Remembrancer's Office in the Court of Exchequer.		
Fees taken of Sheriffs in the said Office on passing their Accounts by the Remembrancer.		
UPON a Baron's Warrant for respiting a Sheriff's Appofal, or for a Day over to finish his Accounts,	04	00
Upon the View of a Sheriff's Accounts in Easter and Michaelmas Term,	06	08
Upon the Commission to swear a Sheriff in the Country to account,	06	08
Upon examining and ruling a Sheriff's Petition of Allowance for the two Days granted <i>ex gratia Curia</i> for finishing his Account, and for filing his Affidavit of Felons Goods,	12	00
Upon examining and ruling any other Petition in a Sheriff's Account, when any such happens,	03	04
Upon a Record of Surplusage for the first five Pound,	06	08
For every other five Pound,	03	04

For filing any Constat, Warrant, or other Ex-
hibit, — 01 —

By the Sworn Clerks, — 01 —

FOR making the View of a Sheriff's Ac-
count in Easter and Michaelmas Term, five
Shillings each Term, viz. — 10 —

For giving a Sheriff Notice termly, during
his Year of Office, of any Information or
Plaint against him, according to the Statute
in that Case made and provided; and for at-
tending his Appoals before the Barons, and
in Easter and Michaelmas Terms, twenty Shil-
lings each Term, viz. — 10 —

For drawing any Warrant to be signed by the
Chancellor, or a Baron, — 06 08

For attending a Baron for his Hand thereto, — 03 04

For directing a Sheriff in his Business during
the three Terms he is upon his Account, ten
Shillings each Term, viz. — 10 —

For making the Commission to swear a Sheriff
in the Country to account pursuant to a
Warrant from a Baron for that Purpose, — 10 —

For the Oath thereunto annexed, — 06 08

For a High-Sheriff's Warrant to be sworn to ac-
count, (when he comes in Person) and for
attending his being sworn, — 02 —

For an Under-Sheriff's Warrant, — 03 04

For attending and putting in a Sheriff's Bill of
Profers at the Receipt of Exchequer in Gra-
cli' Pasche & Cro' Sci' Mich' when his Year is
ended, at his swearing to account, — 10 06 08

For entering the two Days *ex gratia Curie*, — 06 08

For drawing a Sheriff's Oath touching Felons
Goods, — 06 08

For a Copy thereof to transmit to the Pipe, — 03 04

For a Certificate of the Execution of a Process, — 06 08

For a Search in order to make such Certificate, — 03 04

For drawing any Petition in Parchment, and in-
rolling it, — 06 —

For inrolling a Sheriff's Bill of Allowance, — 13 04

For inrolling any Schedule in *Oneri Constat*, or
Warrant by the Roll, — 06 08

For a Record or Surplussage for the first five
Pounds, — 06 08

For

Of the Duties of Sheriffs,

For every other five Pounds,	6	0	4
For copying any Seizure made by a Sheriff, per Sheet,	—	—	08
For examining and signing the same,	—	03	04
For a Writ of Assistance and Seal,	—	10	—
For attending at Westminster to dismiss a Sheriff the Court, enrolling his Account,	—	06	08

By the Filiter.

F OR setting a High Sheriff's Commission, or Warrant, ad Computas, on the Scrill of Accountants,	0	—	—
For an Under-Sheriff's Warrant, and any Warrant ad regnum, Breve,	—	—	—
For the Sheriff's Tallies of Profers,	—	03	—
For entering a Sheriff's Writs on the Bills,	—	02	—
And when he comes post Dies and Amerciaments are let by the Court, then for each Amerciament one Shilling, being usually fix during his Year, viz.	—	06	—
When any Plea, Composition, Order, or the like, happens during a Sheriff's Account, through his Defaults or Contempts, he pays the same Fees that are paid by other Suitors,	—	—	—

There have been some small Fees Time out of Mind paid to the Under-Clerks, viz.

F OR writing a Warrant or Affidavit,	—	01	—
On Return of Process twice a Year, five Shillings, viz.	—	—	—
For ingrossing a Commission, and Oath annexed,	—	05	—
<i>As likewise to the Portubag, viz.</i>	—	—	—

F OR carrying any Writ to be sealed,	—	—	106
For a Commission,	—	01	—
A Sheriff pays him at each of his Appoals two Shillings, viz.	—	04	—
And for Postage of all his Business, during the Time he is upon his Account,	—	05	—

A par-

A Particular of such Fees as are to be paid by Sheriffs in the Office of Remembrancer of the First-Fruits and Tithes in his Majesty's Exchequer.

FOR attending the Sheriffs Apposals at Westminster upon their returning of Writs, issued for Arrears of First-Fruits, and for filing the same in Easter Term, each The like for Michaelmas Term,

Fees to be received by the Foreign Apposer, his Deputy or Chief Clerk, of all Sheriffs of Counties, Cities, and Towns, at their Apposal upon the Stampings of the Green-Wax, and for making out the Judices Wages when craved by the Sheriff.

Counties.	Apposal.			Judices Wages.		
	l.	s.	d.	l.	s.	d.
Bedford	03	05	—	01	12	06
Berks	03	05	—	01	12	06
Bucks	03	05	—	01	12	06
Cambr' Hunt'	03	05	—	01	12	06
Cornwall	06	05	—	01	12	06
Cumberland	03	05	—	01	12	06
Derby	03	18	04	01	12	06
Devon	07	05	—	01	12	06
Dorset	04	05	—	01	12	06
Essex	06	05	—	01	12	06
Gloucester	04	05	—	01	12	06
Hereford	03	05	—	01	12	06
Hertford	03	08	04	01	12	06
Kent	06	05	—	01	12	06
Leic'	03	05	—	01	12	06
Lincoln	06	05	—	01	12	06
Long and Middlesex	07	10	—	01	12	06
Monmouth	03	05	—	01	12	06
Norfolk	06	05	—	03	05	—
North'ton	05	05	—	01	12	06
Nottingham	03	18	04	01	12	06
Northumberland	01	15	—	01	12	06
Oxford	03	05	—	01	12	06
Rutland	01	15	—	01	12	06
Salop	04	05	—	01	12	06
						Somerſet

Of the Office of Sheriffs

Counties.	Appofal.	Justices Wages.
Somerset	06 05 —	01 12 06
South'ton	03 18 04	01 12 06
Stafford	03 05 —	01 12 06
Suffolk	07 05 —	03 05 —
Surrey	03 05 —	01 12 06
Suffex	03 05 —	01 12 06
Warwick	03 05 —	01 12 06
Westmorland	01 15 —	— — —
Worcester	09 05 —	01 12 06
Wills	09 05 —	01 12 06
York	09 05 04	03 05 —

Cities.	Appofals.
Bristol	17 06
Coventry	17 06
Canterbury	17 06
Exeter	01 12 06
Glouc'	— 17 06
Litchfield	— 15 10
Lincoln	— 15 10
Norwich	01 12 06
Worcester	— 17 06
York	— 17 06
Townt.	— 17 06
Kingston super Hull	— 15 10
Nottingham	— 17 06
Newcastle upon Tyne	— 17 06
Pool	— 14 02
South'ton	— 17 06

Fees to be taken by the Clerk of the Extracts in his Majesty's Court of Exchequer, and by the Sworn Clerk in that Office, of all Sberiffs accomprable in the Exchequer upon their Appofals on the Summons of the Green Wax.

To the Clerk of the Extracts for Northumberland and Westmorland, each
Of London and Middlesex,
Of the County of Rutland,

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Of every other County, each	01	—	—
Of the City of Exon,	—	10	—
Of every other City and Town, each	—	06	08

To the sworn Clerk for writing out the Summons twice every Year, and attending the Appofals:

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Of the County of Rutland,	—	09	03
Of Ebor'	01	16	08
Of Surrey,	01	13	04
Of Westmorland,	—	16	08
Of the Counties of Heref', Hertf', Oxon, Suff. and South'ton, each	3 01	—	—
Of every other County,	01	06	08
Of the Cities of Bristol, Litchfield, and Town of Pool, each	3 —	05	10
Of the City of Exon,	—	10	—
Of every other City and Town, each	—	08	04
The Fee due to the Chancellor of the Exchequer, his Secretary, and Clerk, for passing a Sheriff's Allowance, to be	3 —	15	—

Fees to be taken by the Curfitor-Baron, and his Clerk, of the feveral Sheriffs of England.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
T O the Baron for swearing to their Account, and signing their Warrant,	3 —	16	08
To his Clerk,	—	04	—
To the Baron at their Appofals,	01	—	—
To his Clerk,	—	07	06
To the Baron at their calling out of Court,	01	—	—
To his Clerk	—	07	06

Sheriffs of London and Middlesex, and Sheriffs of the County of York, pay double Fees, and the Sheriffs of Suffex, Surrey, Rutland and Westmorland, pay half fees.

*Fees Certain and Casual to be paid by the Sheriffs to the Marshals of his Majesty's Court of Exchequer, granted to them by Patent under the Great Seal with-
out Salary.*

Easter-Term.

AL L Sheriffs of the Counties of England come then to be apposed on their Writs and Process before the Barons, and pay the said Marshals (except Rutland and York shire) Rutland to Day half that Fee, viz. York shire double

Michaelmas-Term.

The same Sheriffs are apposed again on the same Writs and Process, and to pay their Fees as above.

Easter-Term.

Sheriffs of the Cities and Towns, and Deputies of the Cinque-Ports, each of them to pay severally upon their Apposals then, as followeth, viz.

Lincoln, Canterbury, Pool, Gloucester, Worcester, Nottingham, Coventry, Southampton, Litchfield, and Deputy of the Cinque-Ports, York, Norwich, Exon, Newcastle, Hull, Bristol City,

Michaelmas-Term.

THE Sheriffs of Cities and Towns above, apposed then, are to pay the same Fees as paid in Easter Term, and when sworn to account, are to pay more, Bailiffs of Liberties sworn to account, are to pay each Bristol Escheator is to pay,

Michaelmas

Michaelmas-Term.

Sheriffs of Counties prefixed that Term to be sworn, and to take their Accounts in Charge before the Curfitor-Baron, on the Summons of the Pipe, and before the Foreign Apposer upon the Green Wax, viz. Essex, Hereford, Kent, Cambridge, Huntingdon, Northampton, Lincoln, Stafford, Wigorn, Wilts, Cornub, Salop, Berks and Bucks, are to pay each,

Rutland is to pay half that Fee, — 12 07
London and Middlesex is to pay his Fees for a whole Year, — 12 07

London Gauger then sworn in Court is to pay, — 08 08

Hilary-Term.

Sheriffs of Counties sworn and apposed before the Curfitor-Baron and Foreign Apposer, as in *Michaelmas Term*, viz. Surrey, Sussex, Oxon, Berks, Norfolk, Suffolk, Hereford, Dorset, Monmouth, Somerset, Derby, Nottingham, Devon, Gloucester, Warwick, Southampton, and Leicester, to pay each
York pays double 02 18 04

Easter-Term.

Sheriffs of Cumberland and Northumberland, then prefixed and apposed on the Summons of the Pipe and Green Wax, before the Curfitor-Baron and Foreign Apposer, to pay each,

Westmotland then to pay his Fees for the whole Year, } 02 06 08

Lancashire for the whole Year, } 03 10 —

Cheeshire for the whole Year, } 03 06 08

All Sheriffs discharged by Proclamation in the Court, except York, } — 15 10

York is to pay 01 11 08

Of the Office of Sheriffs,

Casual Fees.

	l.	s.	d.
Sheriffs attached by Order of Court, or Warrant,	01	13	04
Sheriffs in Custody <i>per Diem</i> until discharged,	—	06	08

If the Marshal rides, into the Country, six Pence *per Mile* forwards, and the same backwards, towards his Charges from the Sheriff on whose Account he goes.

	l.	s.	d.
Every Sheriff that hath further Time given him by Order of Court, or Warrant, to pass his Account, or to be apposed, to pay	—	08	08

The Fees to be taken by the Four Ushers of his Majesty's Court of Exchequer.

	l.	s.	d.
Of every High Sheriff when he enters on Recognizance in the Exchequer,	—	08	—
Of every Sheriff of a County sworn to answer upon his two Apposals on the King's Remembrancer, Treasurer's Remembrancer, and First-Fruits Process, for each the said Apposals,	—	08	—
Of every Sheriff of a City, &c. on each of his said two Apposals,	—	04	—
Of every Sheriff of a County sworn to his Account in Court, or elsewhere, and on his Apposal on the Pipe-Process before the Cursitor Baron,	—	18	06
Of every Sheriff of a City, &c. on the like Apposal,	—	04	—
Of every Sheriff of a County at his casting out of Court, or finishing his Account,	—	08	—
London, Middlesex and Yorkshire to pay double.	—	16	—

Fees

Fees to be taken by the Court-Keeper of his Majesty's Court of Exchequer.

Of every High-Sheriff when he enters on Recognizance in the Exchequer,	02	—
Of every Sheriff of a County-Town to answer, upon his two Appofals on the King's Remembrancer, Treasurer's Remembrancer, and First-Fruits Process, for each of the said Appofals,	02	—
Of every Sheriff of a City, &c. on each of the said two Appofals,	01	—
Of every Sheriff of a County sworn to his Account in Court, or elsewhere, and on his Appofal upon the Pipe-Process, before the Curfitor-Baron,	03	—
Of every Sheriff of a City, &c. on the like Appofal,	01	—
Of every Sheriff of a County upon his Appofal on the Summons of Green Wax before the Foreign Appofer, and Clerk of the Estreats,	02	—
If appofed out of Term,	02	06
Of every Sheriff of a City, &c. on the like Appofal,	01	—
Of every Sheriff of a County on his casting out of Court, or finishing his Accounts,	02	—
<i>London, Middlesex and York to pay double.</i>		

Fees to be received by the Messenger of the said Court, viz.

Of every Sheriff of a County sworn to answer upon his two Appofals on the King's Remembrancer, Treasurer's Remembrancer, and First-Fruits Process, for each of the said Appofals,	06	08
Of every Sheriff of a City for each of the said two Appofals,	03	04
<i>London, Middlesex and York to pay double.</i>		

Fees to be received by the Tipstaff in the said Court.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
OF every Sheriff when he enters on Recognition in the Exchequer,	—	02	—
Of every Sheriff of a County sworn to answer upon his two Apposals upon the King's Remembrancer, Treasurer's Remembrancer, and First-Fruits Process, for each of the said Apposals,	—	02	—
Of every Sheriff of a City, &c. sworn to answer the like Apposals,	—	01	—
Of every Sheriff of a County sworn to his Account in Court, or elsewhere, and on his Apposal on the Pipe-Process before the Curlior-Baron,	—	03	—
Of every Sheriff of a City, &c. on his Apposal on the Pipe-Process before the Curlior-Baron,	—	or	—
Of every Sheriff of a County at his casting out of Court, and finishing his Account, London, Middlesex and York to pay double.	—	02	—

Fees and Allowances to be paid to the Auditors of the Exchequer, for Making up and Passing the under-mentioned Sheriffs Accounts, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
FOR inrolling a Sheriff's Patent, filing the several Certificates, drawing and ingrossing the Account, and for the <i>Quietus</i> of the Sheriff of <i>Cheshire</i> and <i>Lancashire</i> , the Fees for each County to be,	20	—	—
For the County-Palatine of <i>Durham</i> , according to ancient Custom,	09	06	08
For casting out of Sheriffs in open Court, except <i>London</i> and <i>Middlesex</i> , <i>York</i> and <i>Lincoln</i> , each County	—	10	—
For <i>London</i> , <i>Middlesex</i> , <i>York</i> and <i>Lincoln</i> , each County,	01	—	—

Fees

Fees to be paid by the Sheriffs of Wales to the Auditor of Wales and Cheshire, for the several Sheriffs of Wales.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
F OR every old Seizure charged in the Sheriff's Account,	—	01	—
For every new Seizure charged in the Sheriff's Account,	—	02	—
For inrolling a Sheriff's Patent, filing the several Certificates, drawing and ingrossing the Account, and for the <i>Quiero est</i> for each County,	08	18	04

The Fees due to the Receiver of North and South Wales.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
F OR every Sheriff upon passing his Accounts at the Audit for signing his Accounts, and entering in the Revenue-Book,	02	13	04

For the Sheriff of Cheshire.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
F OR inrolling the Sheriff's Patent, filing the several Certificates, drawing and ingrossing the Account, and for the <i>Quiero est</i> ,	20	—	—

Anno Tertio Georgii Regis, Cap. 16.

*An ACT for the better enabling Sheriffs to
sue out their Patents, and pass their Ac-
counts.*

WHereas it is not reasonable that the Sheriffs of this Kingdom, who are obliged to take upon them that troublesome and expensive Office for the Service of their Country, should pay those large Fees that are demanded of them, and of Right belong to the Officers and Clerks of the Chancery, Exchequer, and Pipe, for passing their Patents and Accounts, and obtaining their *Quittus's*: And whereas it would be unreasonable to take their due Fees from the Officers and Clerks, or to expect that they should do the Duty of their respective Offices without a reasonable Reward for their Labour: And whereas the whole Expence of passing the Patents and the Accounts of the several Sheriffs herein after mentioned, amounts to four thousand Pounds: Therefore to the End that the Sheriffs may be eased, and Justice done to the said Officers and Clerks, be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and of the Commons in this present Parliament assembled, and by the Authority of the same, That from and after the twenty-ninth Day of September, in the Year of our Lord, one thousand seven hundred and seventeen, the yearly Sum of four thousand Pounds shall be set apart at the Receipt of the Exchequer out of such Fund as by any Act of this Session of Parliament shall be charged with the said yearly Sum, and in such Manner as shall be thereby appointed, for the Uses and Purposes hereafter mentioned.

And be it further enacted by the Authority aforesaid, That there shall be yearly, and every Year, paid out of the Monies which shall from Time to Time, be so set apart upon the first Day of *Michaelmas* Term, to the several Sheriffs for the Time being, of the several Counties herein after mentioned, the
several

Several and respective Sums herein after expressed, to enable them respectively to bear the Expences of the respective Letters Patent for their Offices, and to pass their respective Accounts, and to obtain respective *Quietus's*; the said yearly Sums to be received without any Account or Imprest whatsoever to be set upon them, or any of them, and without paying any Fees or Charges for the same, or any Part thereof; that is to say,

TO the respective Sheriffs which shall be appointed for the County of *Bedford*, ninety-three Pounds and six Shillings.

For the County of *Berks*, ninety-six Pounds.

For the County of *Bucks*, ninety-six Pounds.

For the Counties of *Cambridge* and *Huntingdon*, ninety-five Pounds, and ten Shillings.

For the County of *Cheshire*, sixty-two Pounds, and five Shillings.

For the County of *Cornwall*, one hundred and two Pounds, and sixteen Shillings.

For the County of *Cumberland*, ninety Pounds and two Shillings.

For the County of *Derby*, ninety-three Pounds, and nineteen Shillings.

For the County of *Devon*, one hundred and six Pounds, nine Shillings.

For the County of *Dorset*, one hundred and one Pounds, six Shillings.

For the County of *Essex*, one hundred and eight Pounds, ten Shillings.

For the County of *Gloucester*, ninety-eight Pounds, and ten Shillings.

For the County of *Hereford*, ninety-four Pounds, and six Shillings.

For the County of *Hertford*, ninety-three Pounds.

For the County of *Kent*, one hundred and eight Pounds, ten Shillings.

For the County of *Lancaster*, sixty-seven Pounds, and seven Shillings.

For the County of *Leicester*, ninety-four Pounds, and six Shillings.

For the County of *Lincoln*, one hundred and one Pounds, three Shillings.

For the County of *Middlesex*, one hundred and nineteen Pounds, three Shillings.

For the County of *Monmouth*, eighty-nine Pounds, and three Shillings.

For the County of *Norfolk*, one hundred and one Pounds, fifteen Shillings.

For

Of the Office of Sheriffs, &c.

For the County of *Northampton*, ninety-six Pounds.

For the County of *Northumberland*, ninety one Pounds.

For the County of *Nottingham*, ninety-five Pounds, and thirteen Shillings.

For the County of *Oxon*, ninety-seven Pounds, and seven Shillings.

For the County of *Rutland*, sixty-nine Pounds, and eleven Shillings.

For the County of *Salop*, ninety-eight Pounds, and three Shillings.

For the County of *Somerset*, one hundred and twelve Pounds, nineteen Shillings.

For the County of *Southampton*, one hundred and one Pounds, three Shillings.

For the County of *Stafford*, ninety-five Pounds, and ten Shillings.

For the County of *Suffolk*, one hundred and two Pounds, twelve Shillings.

For the County of *Surrey*, ninety Pounds and two Shillings.

For the County of *Sussex*, ninety Pounds, and five Shillings.

For the County of *Warwick*, ninety-three Pounds, and ten Shillings.

For the County of *Wiles*, one hundred and four Pounds, ten Shillings.

For the County of *Worcester*, ninety-eight Pounds, and three Shillings.

For the County of *York*, one hundred and fifty Pounds.

For the County of *Anglesea*, thirty Pounds.

For the County of *Brecon*, thirty Pounds.

For the County of *Cardigan*, thirty Pounds.

For the County of *Caermarthen*, thirty Pounds.

For the County of *Carnarvon*, thirty Pounds.

For the County of *Denbigh*, thirty Pounds.

For the County of *Flint*, thirty Pounds.

For the County of *Glamorgan*, thirty Pounds.

For the County of *Merioneth*, thirty Pounds.

For the County of *Montgomery*, thirty Pounds.

For the County of *Pembroke*, thirty Pounds.

For the County of *Radnor*, thirty Pounds.

And to the Sheriff of *Westmorland*, for the Time being, forty Pounds, and six Shillings.

An Indenture by a High Sheriff, deputing one to be his Under-Sheriff.

THIS Indenture made, &c. between *A. B.* of *R.* in the County of *York*, Esq; Sheriff of the said County, of the one Part, and *C. D.* of *W.* in the said County, Gentleman, of the other Part, *Witnesseth*, That the said *A. B.* of assured Hope, Confidence and Trust that he hath, that the said *C. D.* will honestly, uprightly, and sufficiently discharge the Office and Duty of Under-Sheriff, as well to our Sovereign Lord the King, as all the People of the Kingdom of *England*, and therein discharge him the said Sheriff; and for the Consideration hereafter mentioned, hath been pleased and contented to assign, depute, ordain, constitute and make the said *C. D.* his Under-Sheriff of the said County of *York*, authorizing hereby the said *C. D.* according to the Covenants and Agreements by these Presents contained, to execute, perform, and do all that which to the Duty and Office of Under-Sheriff of the said County of *Y.* shall appertain, or to the Sheriff of the said County, without the personal Presence of the said Sheriff may be executed and done, and also to receive and take to his own Use, all Manner of Duties and lawful Fees, Commodities, Profits and Advantages to the same Office belonging, or in any wise lawfully appertaining, during such Time as the said *A. B.* shall continue Sheriff of the said County: In Consideration whereof the said *C. D.* for himself, his Heirs, Executors and Administrators, doth promise, covenant and grant, to and with the said *A. B.* his Executors, Administrators and Assigns, and every of them, by these Presents; That he the said *C. D.* shall and will during such Time as the said *A. B.* shall continue, remain, and be Sheriff of the said County of *Y.* honestly, truly and sufficiently execute and do the Office and Duty of an Under-Sheriff in the said County of *Y.* and shall and will well and sufficiently do and execute for and in the Name of the said Sheriff, all and every Thing and Things concerning the Office of the said Sheriff of the said County of *Y.* which without the personal Presence of the said High Sheriff may lawfully be done and executed, and thereof shall discharge the said High Sheriff, his Heirs, Executors, and Administrators.

And furthermore, the said *C. D.* for him, his Heirs, Executors and Administrators, and every of them, doth covenant, promise, and grant to and with the said *A. B.* his Heirs, Executors and Administrators, and every of them by these Presents,

A Covenant by the Under-Sheriff honestly to execute the Office, &c.

And that neither he nor his Servant, &c. will do any Thing contrary to Law in Prejudice of the Sheriff, &c.

Covenant by the Under-Sheriff to appoint sufficient Deputies or Attorneys in all Courts, and Deputies in all Parts of the County.

That he is to give Notice to the High-Sheriff of all Things to be done by him, in his proper Person, and thereto will be assistant.

Covenant to receive all Process, &c. to collect all Fines, Issues, Amerciaments, &c. and to pay the same, &c. and to sequeit and discharge the Sheriff.

sents, That neither the said *C. D.* his Servant, Deputy, Assignee, Clerk or Bailiff, by him to be assigned, shall or will by Colour of his said Office, Deputation or Assignment, extort, levy or receive any manner of Thing or Things, which by the Laws, Customs, or Statutes of the Kingdom, are or shall be prohibited, or not allowed, whereby the said Sheriff, his Heirs, Executors or Administrators, or any of them, may in any wise be either in their Persons, Goods or Lands, defamed, impeached, charged, impaired, molested or troubled.

And further, the said *C. D.* for himself, his Heirs, Executors and Administrators, and every of them, doth covenant, promise and grant to and with the said *A. B.* his Heirs, Executors and Administrators, and every of them, by these Presents, That he the said *C. D.* shall and will assign and appoint sufficient Deputies and Attorneys in all Courts accustomed, as well to receive Writs, Warrants, Precepts and Commandments to the said Sheriff to be directed, and to make Process thereof, and to do all Thing and Things for the executing, serving, and sufficient returning thereof: And also shall make and appoint a sufficient Number of Deputies in all Parts of the said County of *T.* according to the Laws and Statutes of this Kingdom.

And he the said *C. D.* shall and will from Time to Time give reasonable Notice and Warning unto the said *A. B.* of all such Things as shall be requisite and necessary for the said *A. B.* Sheriff of the said County, or by reason of his said Office in his own Person to do or execute, and therein at all Times in his own Person, or by his sufficient Deputy, shall be aiding and assisting as well for the doing and executing thereof, and the returning thereof: As also shall bear and pay all such Charges thereof, as to the Sheriff by reason of the said Office should appertain, except Man's Meat, and Horse-meat.

And also the said *C. D.* for himself, his Heirs, Executors and Administrators, and every of them, doth covenant, promise and grant to and with the said *A. B.* his Heirs, Executors and Administrators, and every of them, by these Presents, That the said *C. D.* his Heirs, Executors, Administrators or Assigns, shall and will well and truly from Time to Time receive all such Extracts and Process whatsoever, wherewith the said *A. B.* as Sheriff of the said County of *T.* is or shall be chargeable to receive, and that the said *C. D.* his Heirs, Executors, Administrators and Assigns, shall and will well and truly collect, levy, and gather all Fines, Issues and Amerciaments, Seizures, Fee-Farms, Rents, Profits, Certainities, Pipe-silver, Chequer-silver, and all manner of Debts, Duties and Demands whatsoever, wherewith the said *A. B.* as Sheriff of the said County of *T.* his Heirs, Executors and Administrators, their or any of their Goods, Chattels or Lands,

may in any wise be charged, or chargeable, and the same to pay to his Majesty's Use at such Times as the said *A. B.* is charged or chargeable to pay the same, and thereof, and of every Part and Parcel thereof, to acquit and discharge as well the said *A. B.* his Heirs, Executors and Administrators, and every of them, as also all and singular their and every of their Goods and Chattels, Manors, Messuages, Lands, Tenements and Hereditaments: And also that he the said *C. D.* his Heirs, Executors, Administrators or Assigns, shall and will from Time to Time, acquit and discharge, or otherwise sufficiently save and keep harmless the said *A. B.* his Heirs, Executors, Administrators and Assigns; and also all his and their Goods and Chattels, Lands, Tenements and Hereditaments whatsoever, of and from all manner of Execution, or of Executions of Prisoners whatsoever which to the Office of Sherifffick shall appertain, Forfeitures, Fines, Amerciaments, Imprisonments, Pains, Penalties or Impositions whatsoever, to be charged, levied, or imposed upon the said *A. B.* Sherifff of the said County of *Y.* his Heirs, Executors, Administrators or Assigns, his or their, or either of their Goods or Chattels, Lands, Tenements or Hereditaments, by reason of any Misfeasance or Non-feasance, Omissions, Default, Delay, Contempt, or Cause whatsoever, of the said *C. D.* his Deputy or Deputies, Attorney or Attorneys, Clerk or Clerks, Bailiff or Bailiffs, or other Person whatsoever, not doing, or insufficient doing his or their Duty concerning the said Office of Sherifff or Under-Sherifff. And that neither he the said *C. D.* nor any of his Assigns, Deputies, Clerks or Attorneys, shall or will intermeddle with the Execution or returning of any Letters or Commandments from his Majesty or his Privy Council, without the Privy, Notice and Direction of the said *A. B.* then first had: And the said *C. D.* for himself, his Heirs, Executors, Administrators and Assigns, and every of them, doth further covenant and grant, to and with the said *A. B.* his Heirs, Executors and Administrators by these Presents, that he the said *C. D.* shall receive into his Custody all Prisoners to be committed to his Charge, and them safely and honestly shall keep, until they shall be brought and delivered into the Gaol or Prison of the said County, there to be safely kept by the Gaoler or Keeper of the same Gaol or Prison, until by due Course of Law they shall be delivered. And of such Prisoners as shall be convicted or attainted, shall make, or cause to be made, due Execution, according unto the Quality of the Judgment against every of them to be pronounced.

And that the same *C. D.* shall and will within six Days next before the beginning of every Term, which shall be during

And that he will acquit, &c. the Sherifff from all Executions of Prisoners, &c. And from all Forfeitures, by reason of any Misfeasance, or Non-feasance, &c. of him, his Deputy, &c. And that he will not intermeddle with the Execution of any Letters, &c. from the King or his Privy Council. Covenant safely to keep the Prisoners until they are delivered to the Gaol, and to execute Prisoners attainted.

That he will deliver a Certificate

the

the Time of the said Sheriffwick, well and truly deliver and certifie unto the said *A. B.* a true Note or Certificate in Writing under his Hand of all such Writs of Execution whatsoever, as before the Term shall be come to his Hands, with the Name and Surname of the Party and Parties for whom the said Execution is to be done; and also the Name and Surname against whom the same is to be executed, and the Sum and Sums of Money thereby severally to be levied, and what is done therein, upon every such Writ or Process.

Grant, that the Under-Sheriff may in the Name of the Sheriff assign over any Bond to be taken for Appearance, &c. and commence Action upon such Bonds to enforce the Parties to appear. Covenant to save harmless the Sheriff from all Costs recovered against him upon any such Suit.

In Consideration of all which Premises, the said *A. B.* is contented and pleased that the said *C. D.* shall or may in the Name of the said *A. B.* assign and set over any Bond to be taken in the Name of the said Sheriff, for Appearance or Discharge of Process to any Person or Persons, to the Intent thereby to compel the Parties to appear, to save and keep harmless the said Sheriff and Under-Sheriff of any Fine or Amerciament thereby: And also that the said *C. D.* may commence or take his Action upon any such Bond, for the enforcing the said Parties therein bound to bring forth the Party or Parties for whose Appearance they were become bound, thereby to save himself harmless of such Fines and Amerciaments as shall be imposed or laid upon the said Sheriff for not bringing forth the said Party or Parties; all which Suits being lawfully taken for the Causes aforesaid, the said *A. B.* doth covenant and promise to avow and justify, and that it shall be lawful to and for the said *C. D.* his Executors and Administrators, and also for the said Assigns, to retain to their own Use the said Sum or Sums to be recovered by reason of the said Bonds, towards their Charges and Losses, by reason of the not Appearance of the said Parties; so always that they and every of them, shall stand to the Orders and Directions of the said *A. B.* his Executors or Administrators for the Overplus thereof (if any shall be). And the said *C. D.* for himself, his Heirs, Executors and Administrators, and every of them, doth covenant and promise to and with the said *A. B.* his Heirs, Executors and Administrators, to acquit and discharge, or else to save harmless the said *A. B.* &c. of and from all, and all Manner of Costs and Damages which may in any wise be awarded, adjudged, decreed or recovered against him or them by reason of any such Suit.

Covenant by the Under-Sheriff to pay all Sums due to the King, and to procure a Quietum est, &c.

Finally, The said *C. D.* for himself, his Heirs, &c. and every of them, doth covenant, promise, and grant, to and with the said *A. B.* his Heirs, &c. and every of them, by these Presents, that he the said *C. D.* his Executors, &c. shall and will on this Side the Feast-day of the Purification of our blessed Virgin Mary, which shall be in the Year, &c. well and truly discharge and pay unto the King's Majesty, his Heirs or Successors, all such Sum and Sums of Money, Duties and Demands, as shall be due unto his Majesty, his Heirs or Successors,

cessors, wherewith the said *A. B.* shall be charged or chargeable as Sheriff; or by reason of the said Office of Sheriffwick of the said County of *Y.* and thereupon within three Months next ensuing, shall procure unto the said *A. B.* his Heirs, &c. a sufficient Discharge and *Quietus est*, in full Discharge of his said Office and Account.

Provided always, That if the said *C. D.* his Deputy or Deputies, Attorney or Attorneys, Clerk or Clerks, Deputy or Deputies, or any of them, at any Time during the said Office, shall commit, do, or suffer to be done, any Manner of Act or Acts, Thing or Things whatsoever, belonging to the said Office of Sheriff of the said County of *Y.* or by Colour of the said Office, by reason whereof the said *A. B.* his Executors, Administrators or Assigns, or his or their Goods or Chattels, Lands, Tenements and Hereditaments, or any of them, may in any wise be charged or chargeable, above the same Sum of, &c. That then, and from thenceforth it shall be lawful to and for the said *A. B.* to grant, assign, and depute the Execution of the said Office of Under-Sheriff, for the Residue of the said Time then to come, to any Person or Persons: And that then, and from thenceforth, it shall be lawful to and for such Assignee and Deputy, to have and take all the Fees and Commodities, Profits and Advantages, from thenceforth to the said Office belonging, or in any wise appertaining; this Indenture, or any Thing therein contained, or any other Matter or Cause concerning the Assignment or Deputation of the said Under-Sheriffwick, in any wise notwithstanding.

And the said *A. B.* for him, his Heirs, &c. doth covenant and grant to and with the said *C. D.* his Heirs, &c. by these Presents, That he the said *A. B.* his Heirs, &c. shall or will deliver, or cause to be delivered to the said *C. D.* his Heirs, &c. to be cancelled, all such Bonds and Obligations, wherein any Person or Persons shall be, or stand bound for, or in the Behalf of the said *C. D.* to the said *A. B.* for or in Respect of the Execution of the said Office of the said Under-Sheriffwick, or for the saving harmless of the said *A. B.* concerning the said Office of High-Sheriff, within three Months next after the said *C. D.* his Heirs, &c. shall procure or deliver to the said *A. B.* his Heirs, &c. a *Quietus est* out of his Majesty's Court of Exchequer, for his Discharge of the said Office, and the Bond of the said *C. D.* to remain for the saving harmless of the said *A. B.* his Heirs, Executors and Administrators, of Amerciaments, and other Impositions touching the said Office.

Provido, that if the Under-Sheriff, or his Deputy, &c. shall do or leave undone any Thing, &c. then it shall be lawful for the Sheriff to grant the Office to another.

Covenant by the Sheriff to deliver cancelled to the Under-Sheriff all the Security given by him for the Execution, of his Office, within three Months after he shall have procured a *Quietus est*.

And

An Agree-
ment be-
tween the
Under-
Sheriff, and
one E. F.
and for
that Pur-
pose the
Sheriff
hath Secu-
rity. Ne-
vertheless,
for the
better
Security
the Sheriff
doth by
these Pre-
sents bind
the said
E. F. &c.

And whereas by an Agreement made between the said C. D. and one E. F. Gentleman, whom the said A. B. hath appointed Under-Sheriff for the County of York, it is acknowledged and affirmed by the said E. F. before the Sealing of these Indentures, that the said E. F. his Executors, Administrators or Assigns, is to pass the whole Account of the said A. B. and to execute, levy, gather up, extend, bring in, and pay all such Seizures, Extents, Process, Chequer-silver, Duties and Demands, Charges, Sum or Sums of Money whatsoever, howsoever or wheresoever, as the said A. B. his Heirs, Executors or Administrators, shall be in any Court or Courts, Place or Places, any way charged or chargeable unto or withal, as Sheriff of the said County of York, at and according to the Place and Places, Time and Times, limited in these Indentures, for the said C. D. to do and perform; and thereupon shall also accordingly within six Months next ensuing the Time within limited, procure unto the said A. B. his Heirs and Assigns, a sufficient Discharge, and *Quietus est* in full Discharge of the said Office and Account.

Covenant
by the She-
riff not to
charge the
said E. F.
Or. if he
may be
saved
harmless
by the
Under-
Sheriff.

And the said A. B. hath to that End also Security of two thousand Pounds from the said C. D. and his Sureties, for the Performance of the like Covenant amongst other Covenants in the Indenture specified, which are made between the said A. B. and the said C. D. and yet notwithstanding the said A. B. for his better Security doth by these Presents bind and tye the said E. F. his Executors, Administrators or Assigns, to the doing and performing of the same. Also the said A. B. is well pleased and contented, and for himself, his Executors and Administrators, doth covenant, promise and grant to and with the said E. F. his Executors, Administrators, and every of them, that if the said A. B. his Heirs, Executors, Administrators and Assigns, shall or may be relieved, saved harmless or indemnified for and concerning the fore-cited Covenants and Agreements, by the said C. D. his Executors and Assigns, and his Sureties, that then be the said A. B. his Executors, Administrators or Assigns, shall or will not take any Benefit or Advantage of the said Covenants and Agreements against the said E. F. his Heirs, Executors, Administrators or Assigns, or any his Sureties, or any of them. In Witness whereof, &c.

Or thus :

THIS Indenture made, &c. In the Year, &c. between *A. B.* of *R.* in the County of *T. Esq;* (now High-Sheriff of the said County) of the one Part, and *C. D.* of, &c. in the said County, *Gent.* of the other Part. Whereas our Sovereign Lord the King, by his Majesty's Letters Patent under the Great Seal of *Great Britain*, bearing Date the seven-teenth Day of this Instant *November*, hath made, nominated, constituted, assigned, and appointed the said *A. B.* to be High-Sheriff of the said County of *Tork*, during his Pleasure.

Now this Indenture witnesseth, That the said *A. B.* for the good Opinion which he hath conceived of the said *C. D.* and of the Trust and Confidence which he repositeth in him, hath deputed, assigned, constituted and ordained, and by these Presents doth depute, assign, constitute and ordain him the said *C. D.* to be his Under-Sheriff, of, for, and in the said County of *Tork*, during all the Time that he the said *A. B.* shall be and remain Sheriff of the said County, by Force of the Letters Patent aforesaid; and doth hereby authorize the said *C. D.* to serve, exercise and execute the said Office of Under-Sheriff of the said County under him the said *A. B.* in his Name during all the Time aforesaid. And the said *A. B.* as far as in him lies, doth also by these Presents grant unto the said *C. D.* that it shall and may be lawful to and for the said *C. D.* by Force hereof to appear, answer and serve, and minister as Under-Sheriff of the said County of *Tork*, for and in the Name of the said *A. B.* as well in all Places of the said County of *Tork*, as in all and every the Court and Courts within the Kingdom of *England*, and before all and every the Justices of Oyer and Terminer, Justices of Assize and Gaol-Delivery, Justices of the Peace, Coroners and Escheators, and other Officers and Commissioners of this Kingdom, where the said *A. B.* by Virtue of the said Office of Sheriffwick for the said County of *Tork* shall be bound, or ought to appear, answer, serve or be attendant; and to break open, answer, return and execute for him the said *A. B.* in his Name all Process, Writs, Precepts, Warrants, Mandates and Commandments to the Sheriff of the said County directed, or hereafter to be directed, out of any of the Courts aforesaid, or from any the Justices, Coroners or Escheators aforesaid; and to do, perform and execute for him the said *A. B.* and in his Name, all and every Thing and Things, which by him the said *A. B.* by Virtue of his Office of Sheriffwick of the said County of *Tork*, is to be performed, executed and done: Saving always, and excepting the said *C. D.* shall not by Virtue thereof be authorized to open, return, send or execute any

Covenant
that the
Under-
Sheriff
shall not
execute
any Writs
for Knights
for the
Parlia-
ment; nor
open, exe-
cute or an-
swer any
Letters of
his Majesty
or the
Council.

S

Writ

Writ or Writs for electing any Knights of the Shire, Burgesses of Parliament for the said County of *York*, or any Borough within the said County; nor open, execute, or answer any the Letters of the King's Majesty, or the Council, to be directed unto the said Sheriff of the said County of *York*, without the special Warrant, Direction or Commandment of him the said *A. B.* for that Purpose.

And further, the said *A. B.* doth by these Presents grant unto the said *C. D.* for the executing of the said Office, all the Fees, Duties and Profits to him due, arising and growing by the County-Courts to be kept within the said County of *York*, and all other Fees, Rewards, Duties Allowances and Profits incident to the Office of Sheriffwick, or thereunto belonging, for which the said *A. B.* is or shall be allowed by the Common Laws of this Nation, or Customs of the said County, either for the opening, returning or executing of any Writ, Precept or Process, Warrant or Commandment whatsoever; or for other executing of the said Office, and which have not been accepted heretofore, the ordinary Fees of any other his Bailiffs or other Officers, to have and enjoy the said Duties, Fees, Rewards, Allowances and other Profits to his own Use, without an Account to be rendered to the said *A. B.* his Executors or Administrators for the same.

And the said *C. D.* for and in Consideration of the Benevolence aforesaid, and for the free Gift and Grant of the said *A. B.* doth for himself, his Heirs, Executors, Administrators and Assigns, and every of them, covenant, promise, grant and agree, to and with the said *A. B.* his Heirs, Executors, Administrators and Assigns, by these Presents, That he the said *C. D.* shall and will at all Times from and after the Day of the Date of these Presents, duly, diligently, lawfully and carefully serve the said *A. B.* as his Deputy and Under-Sheriff, of, in and for the said County of *York*, without doing or committing any kind of Extortion, or wilful misbehaving of himself in the said Office; and shall and will duly and respectively execute the said Office of Sheriffwick, under the Name of the said *A. B.* in all Points, so far forth as these Presents, the Laws of the Land, or other Licence or Commandment of the said *A. B.* shall warrant or give Liberty; and shall and will in the Name of the said *A. B.* and as his Deputy in the said Office of Under-Sheriff of the said County of *Y.* be answerable, attendant and minister in all Courts of our Sovereign Lord the King by and before the said Justices of Assize, Justices of the Peace, and all Commissioners, Escheators, Coroners, and other Officers of our Sovereign Lord the King before whom the said *A. B.* shall be bound or required to minister, answer or be attendant, in respect of the said Office of Sheriffwick for the said County; and shall and will execute and make answer, true and sufficient Return of all such Pro-

Covenant
that the
Under-
Sheriff
shall re-
ceive all
Fees to his
own Use.

Covenant
to execute
the Office
without
commit-
ting Ex-
tortion, &c.

† Covenant
to execute
and return
all Proce-
sses, Writs, &c.

cess,

cess, Writs, Precepts and Commandments directed from his said Majesty, or from every and any of the said Courts, Justices, Commissioners, Escheators, and other Officers aforesaid, as shall be delivered to, or come to the Hands of him the said *C. D.* his Deputy or Deputies, Assignee or Assignees, or shall and will discharge and save harmless the said *A. B.* his Heirs, Executors and Administrators*, and his, and their, and every of their Lands, Tenements, Goods and Chattels, of and from all Fines, Issues and Amerciaments, and other Penalties, Forfeitures, Pains corporal and pecuniary whatsoever, whereby or wherewithal the said *A. B.* his Heirs, Executors or Administrators, or his or their Lands, Tenements, Goods or Chattels, shall or may be charged or chargeable for his the said *A. B.* or the said *C. D.* not executing, not filing, neglecting, mis-executing, evil returning, not serving, misreturning, or misfiling any of the said Writs, Process, Precepts, Warrants or Commandments aforesaid; or for the Absence, evil Attendance, or not Attendance of the said *A. B.* or of the said *C. D.* or his Deputy, as aforesaid, or other Misdemeanors in the executing, not executing, or mis-executing of the said Office in any Thing which the said *C. D.* might by Virtue of these Presents by himself or his Deputies execute or perform, other than from such Fines, Issues, Amerciaments, and other Penalties as shall be imposed or adjudged upon or against the said *A. B.* for or in Respect of any Offence, Fault or Negligence by the said *A. B.* at any Time after the Day of the Date of these Presents committed, omitted or done, or to be committed, omitted, or done by himself in his own Person, or by any other, except the said *C. D.* by his the said *A. B.* his Commandment or Appointment, without the Consent of the said *C. D.* And that the said *C. D.* shall himself, or his sufficient Deputy or Deputies, duly and lawfully keep, or cause to be kept within the said County of *T.* all and singular County-Courts of the said County at such Times and Places as hath heretofore been accustomed: And that he the said *C. D.* shall and will make and appoint one or more Attorney or Attorneys, Deputy or Deputies of Record in the Courts of Record, now commonly called the King's Bench, Common Bench and Exchequer, and in all other Courts and Offices wherein Attorneys are commonly appointed; and so shall and will ordain, appoint and make one or more able Deputy or Deputies for him the said *A. B.* in every Hundred within the said County of *T.* according to the Laws and Statutes in these Cases made and provided, so that the said *A. B.* shall not hereafter be liable to any Penalty or Forfeiture for want of any such Attorney or Deputy; and shall and will at his own proper Costs and Charges appear, and make ready all such Place and Places where the Assizes, Gaol-Delivery, or Sessions shall be from Time to Time holden, meet and convenient

* Covenant to save the Sheriff, &c. harmless from all Fines, Issues, &c. for not executing, &c. any Writs, &c. or other Misdemeanors.

Covenant to keep all the County-Courts of the said County at usual Times and Places, &c. And to appoint Attornies or Deputies of Record in the Courts of Record; and constitute Deputies in every Hundred, &c.

Covenant
to make
ready at
his proper
Charges,
the Places
where the
Assizes, &c.
shall be
holden.
And shall
give No-
tice to the

Courts, Bars, and all other Things necessary and convenient for the Justices of Assize, and other Justices to keep their Assizes and Gaol-Delivery and Sessions in, and shall and will from Time to Time give Notice in convenient Time to the said *A. B.* of every such Time and Times, Place and Places, where the personal Attendance of the said *A. B.* shall be requisite and necessary, so as the said *A. B.* may be personally present at such Times and Places, when and where his personal Appearance and Attendance shall be necessary.

Sheriff where his personal Attendance shall be requisite.

Covenant
to collect
and levy
Goods of
Felons and
Fugitives,
&c.

And to
collect and
gather up
all Fines
and Amer-
ciaments,
which he
shall have
Warrant
to levy.

And shall
account in
the Court
of Exche-
quer.

And furthermore, that the said *C. D.* by and during the Continuance of the said Office, shall and will well and truly collect, levy, gather and seise to the Use of our Sovereign Lord the King all the Goods and Chattels of Felons and Fugitives, and all Persons outlawed, and put in Exigent, and of all Persons attainted and convicted of Treason, Murder or Felony, which shall happen within the said County of *T.* during the Time aforesaid, which shall be due or forfeited to our Sovereign Lord the King by any Ways or Means aforesaid; and shall and will from Time to Time well and truly collect and gather up all Fines, Amerciaments, Extraits, Certainties, Fee-farms, Pipe-silver for Licences, Concord for Fines, Green-wax, and all other Sum and Sums of Money, which to the Collection of the said *A. B.* by reason of the Sheriffwick of the said County shall appertain or belong, and which the said *C. D.* shall have Warrant or lawful Authority to seize, levy or collect, or which he shall have Notice of, and may reasonably come by; and thereof, and of every Part thereof, and of all other the Issues and Revenues of the said County, and of all Sums of Money due, or hereafter during the Continuance of the said Office of Sheriffwick of the said County, doth or may appertain, shall and will to his Majesty in the Court of Exchequer aforesaid, yield and give just Account, and also that he the said *C. D.* his Executors or Administrators, at such Days and Terms as he the said *A. B.* is or shall be required to enter into Account of the Court of Exchequer, for or touching the said Office, the said *C. D.* shall and will enter into Account in the said Court of Exchequer, in the Name of the said *A. B.* for and concerning the said Sheriffwick of the said County of *T.* in and upon which Account, the said *C. D.* his Executors and Administrators, shall and will truly answer all such Debts, Duties and Sums of Money, as the said *C. D.* his Deputies, Officers or Servants, or any of the Bailiffs of any of the Hundreds of the said County shall have received, or might have received, or wherewith the said *A. B.* as Sheriff of the said County shall be any Ways charged or chargeable with upon the same Account; and the same

same Account shall and will, at his the said C. D. his own Cost and Charges, prosecute with Effect, until the same Account be fully finished and concluded, without demanding any Allowance or Allowances of the said A. B. his Executors or Administrators for the same: And also that the said C. D. his Executors and Administrators shall and will pay into the Receipt of Exchequer, all such Sums of Money as upon the said Account shall be found in Arrearages within one Year next after the Feast of St. Michael next ensuing the Date hereof: And in the Name of the said A. B. obtain a lawful Discharge and *Quietus est*, out of the said Court of Exchequer for him the said A. B. and the same shall and will deliver unto the said A. B. his Heirs, Executors or Assigns for a full Discharge of him the said A. B. his Heirs, Executors, Administrators and Assigns, of and concerning the said Sheriffwick of the said County of T. within one Year next after the said Feast of St. Michael, and that the said C. D. his Heirs, Executors, Administrators and Assigns, or some or one of them, shall and will, at some or one of their own proper Costs and Charges, disburse and pay for the said A. B. all and all Manner of Fees, Duties, Charges, Sum and Sums of Money, Rewards, Gratuities and Demands whatsoever, which shall be required, demanded, or demandable of the said A. B. as due or accustomed to be paid or given by the Sheriff of the said County, for, or by reason of the said Account, without demanding any Allowance or Allowances thereof of the said A. B. his Heirs, Executors, Administrators or Assigns: And the said C. D. doth further for the Consideration aforesaid, for himself, his Heirs, Executors, Administrators and Assigns, and for every of them, covenant, promise, grant and agree to and with the said A. B. his Heirs, Executors, Administrators and Assigns, by these Presents, that the said C. D. his Executors or Administrators, shall and will from Time to Time, and at all Times hereafter, well, duly and truly satisfy and pay all and singular such Sum and Sums of Money as he the said C. D. or any Deputy, Clerk or Clerks, Bailiff or Bailiffs, Substitute or Substitutes under him, shall at any Time and Times, and all Times levy and receive, by Vertue or Reason of any Writ or Writs, Process of Extent, *Liberate*, *Capias ad satisfaciendum*, *Fieri facias*, *Elegit*, *Distingas nuper Vic'* against any former Sheriff, or any other Writ or Writs of Execution or Warrants whatsoever, according to the true Purport and true Tenor of any such Writ or Writs, Warrant or Warrants respectively, and in such Manner as by the same respectively shall be limited, required or appointed; and shall from Time to Time sufficiently save harmless and defend the said A. B. his Heirs, Executors and Administrators, of, for and from all and every Sum and Sums of Money as aforesaid.

And finish the same Account without any Allowance of the Sheriff. And shall pay into the Exchequer's Receipt all Sums in Arrearages, and shall obtain a *Quietus est* at the Under-Sheriff's Charges.

Covenant that the said C. D. shall truly satisfy and pay all Sums of Money as he or any Deputy, &c. shall levy and receive by Vertue of any Writ, Process of Extent, *Ca. sa.* *Fieri fac.* *Elegit*, &c.

Covenant, that the said C. D. shall at his proper Costs conduct all Prisoners, as shall be required.

And further he the said C. D. his Heirs, Executors, Administrators or Assigns, shall and will at his and their own proper Costs and Charges, conduct and safe Delivery make of all such Prisoners as are, or hereafter shall be in the Custody of the Gaol for the said County of Y. to such Person and Persons, and to such Place and Places as the said A. B. shall by Writ, Warrant, or other Precept or Commandment, or by Virtue and in respect of his said Office, be commanded or bound to deliver the same.

And shall at his proper Charges execute all Persons convicted and put in Execution.

And further, shall and will also at his and their own proper Costs and Charges execute, or cause to be executed, all such Persons as at any Time during the Time aforesaid, shall be convicted and put in Execution, according to the several Judgments, if the same Person or Persons be not by any lawful Authority relieved in the said Gaol.

Covenant, that C. D. shall deliver by Indenture to the Successor of A. B. all Prisoners then in the Custody of A. B. And also all Writs, Process, Warrants, and other Things which shall be in his Custody in respect of the said Office.

And the said C. D. doth further for himself, his Heirs, Executors, Administrators and Assigns, and every of them, covenant, grant, promise and agree to and with the said A. B. his Heirs, Executors, Administrators and Assigns by these Presents, that he the said C. D. his Executors and Administrators shall and will upon the Discharge and giving up of the said Office to such as shall succeed in the said Office of Sheriffwick, of and for the said County of Y. in due Form of Law deliver, or cause to be delivered by Indenture to be made between the said A. B. and his Successor in the said Office, to the said Successor of the said A. B. in the said Office, or to his Deputy for the Time being, all such Prisoners as then shall be in the Custody of the said A. B. or any of his Deputies or Ministers, with the Causes of their Detainments and Imprisonments, and all such Iron Implements and Things as shall be in the Custody of the said C. D. belonging to the common Gaol of the said County, or to the Officers of the same: And also all Writs, Process, Warrants, and other Things which then shall be in his Hands and Custody, in respect of the Office of Sheriffwick, of, in and for the said County of Y.

Covenant to discharge

And the said C. D. doth further for himself, his Heirs, Executors, Administrators and Assigns, covenant, promise, grant and agree to and with the said A. B. his Heirs, Executors

A. B. &c. and his Goods, &c. from all manner of Pains, Forfeitures, Fines, &c. for or by reason of any Escape of any Prisoner, or for not Appearance of any Person arrested at the Day limited, &c. or for any false Return, not Return, or Misreturn, of any Warrant, &c. or for Negligence of the said Office, by reason of the not levying or not paying of any Sums of Money, &c.

and

and Administrators by these Presents, that he the said C. D. his Heirs, Executors or Administrators, shall and will from Time to Time, and at all Times hereafter discharge, defend and save harmless as well the said A. B. his Heirs, Executors and Administrators, and his and their Lands and Tenements, Goods and Chattels, as well against the King and all others whatsoever, of and from all manner of Pains corporal and pecuniary, Forfeitures, Fines, Amerciaments, Debts, Accounts, Duties and Demands whatsoever hereafter lawfully to be commenced, prosecuted, imposed, demanded or demandable of or against the said A. B. his Heirs, Executors or Administrators, or his or their Lands, Goods, Tenements and Chattels, for or by reason of any Escape of any Prisoner or Prisoners whatsoever now under Execution or under Arrest, or hereafter to be had in Execution or under Arrest, for any manner of Debt, Damage, Trespass, Account, or other Duties or Wrong; or for any Treason, Felony, or other Offence whatsoever, or for any other, or by reason of not Appearance of any Person arrested at the Day limited for the Appearance in any Court or Courts, or before any Judge or Judges, or Justices whatsoever, or for or by reason of any false Return, not Return, or Misreturn of any Writ, Warrant or Process, or for any other Misbehaviour, Negligence or Laches of the said C. D. his Bailiffs or Officers in executing or Negligence in executing, or in not Execution of the said Office of Sherifffwick for the said County of Y. of, or for, or by reason of the not levying, answering, or not paying of any Sum or Sums of Money, which shall or may, or ought to be collected or received, by Vertue or by Reason of the said Office of the Sherifffwick of the said A. B. or having Relation thereunto, or by Reason of any Writ or Writs of Assistance for the levying of any Sums of Money wherewith the said A. B. shall or may be charged or chargeable, of or for any Matter, Clause, or Thing having Relation to the said Office: And to the Intent that the said C. D. may the better perform the Execution of the said Office, the said A. B. is contented and pleased, and doth hereby grant unto the said C. D. that he the said C. D. shall have to his own Use the Benefit of such Bonds and Covenants as shall be taken of any Person or Persons, wherein the same Person or Persons shall become bound unto the said A. B. as Sheriff of the said County of Y. with Condition for their, or any of their Appearance in any Court, or elsewhere, before any Commissioners of his Majesty: And of all Obligations taken, or to be taken of any Bailiffs, or their Sureties; and of all other Bonds and Covenants which are or shall be made to the said A. B. as the Sheriff of the said County of York, (except the Covenants herein contained) and the Bonds and Obligations taken, or to be taken for the Performance of the said Covenants, and every of

Grant, that the said C. D. shall have to his own Use the Benefit of Bail-bonds and Bailiffs Bonds, and all other Bonds and Covenants which are or shall be made to the said A. B. except, &c.

them, (except before excepted) and shall and may sue and prosecute the same in the Name of the said *A. B.* his Executors and Administrators, at the proper Costs and Charges of the said *C. D.* his Executors, Administrators and Assigns, and the Monies thereof and thereby recovered to have, take and detain, to his and their own Use and Uses, without any Account thereof to yield or make to the said *A. B.* his Heirs, Executors, Administrators or Assigns; all which said Bonds and Covenants (except before excepted) he the said *A. B.* doth for himself, his Heirs, Executors, Administrators and Assigns, covenant, promise, grant and agree to and with the said *C. D.* his Executors and Administrators, by these Presents, that neither he the said *A. B.* nor his Heirs, Executors or Administrators, or any of them, shall release, acquit nor discharge the said Bonds or Covenants, nor any Action, Plaint or Suit thereupon to be brought, or any Judgment or Execution thereupon to be had, without the Assent of the said *C. D.* his Executors, Administrators or Assigns, unless the said *A. B.* his Heirs, Executors or Administrators shall be enjoined thereunto by Order or Course of Law or Equity.

Covenant,
that *C. D.*
shall keep
harmless
A. B. his,
Ex. of and
from all
Costs
Charges
and Da-
mages, &c.

And the said *C. D.* doth further for himself, his Heirs, Executors, Administrators and Assigns, covenant, promise and grant, to and with the said *A. B.* his Heirs, Executors and Administrators, by these Presents, that he the said *C. D.* his Executors and Administrators, shall and will from Time to Time, and at all Times hereafter, discharge, defend and keep harmless the said *A. B.* his Heirs, Executors and Administrators, and his and their Lands, Tenements, Goods and Chattels, of and from all Costs, Charges and Damages which may arise and happen, by reason of any Bill in Equity, or of any Nonsuit or Judgment obtained by any Person or Persons, of or upon any of the said Covenants, Obligations or Bonds to be taken for Appearance as aforesaid; or by Reason or Means of removing any Action or Suit in the Name of the said *A. B.* his Heirs, Executors or Administrators, against any Person or Persons upon the same Covenants, Obligations, or any of them.

Bond to
perform
the Cove-
nants.

And whereas it is agreed by and between the said Parties to these Presents, that the said *C. D.* shall become bound by Obligation to the said *A. B.* in the penal Sum of 500 *l.* conditioned for the true Performance of the Covenants, Articles and Agreements in these Presents contained, on the Part and Behalf of him the said *C. D.* his Heirs, Executors and Administrators to be performed, and shall also produce five sufficient Sureties, before the thirtieth Day of January next ensuing the Date hereof, to become bound unto the said *A. B.* in the several penal Sums of 100 *l.* apiece, with the like Conditions as aforesaid.

Now

Now the said *A. B.* is contented and pleased, and doth by these Presents for himself, his Heirs, Executors, Administrators and Assigns, covenant, promise and grant to and with the said *C. D.* his Heirs, Executors, Administrators and Assigns by these Presents, that he the said *A. B.* his Heirs, Executors or Administrators, or some or one of them, shall and will within the Space of one Year next after the said *C. D.* his Heirs, Executors or Administrators, deliver or cause to be delivered unto the said *A. B.* his Heirs, Executors, Administrators or Assigns, the said *Quietus est* before in these Presents mentioned, the said *A. B.* his Heirs, Executors and Administrators being first sufficiently and reasonably discharged and saved harmless of and from all the Payments, Penalties, Fines, Amerciaments, Damages, Dangers, and other Demands before in these Presents mentioned, upon the reasonable Request of the said *C. D.* his Heirs, Executors or Administrators, shall deliver or cause to be delivered up the said Obligations so to be made by the Sureties of the said *C. D.* as aforesaid, to such Surety or Sureties respectively, and to their respective Heirs, Executors or Administrators, to be cancelled. In Witness whereof, &c.

A. B. grants to *C. D.* that *A. B.* within the Space of one Year after *Quietus est* shall deliver up the Obligations made by the Sureties of the said *C. D.* &c.

The Form of the Condition.

THE Condition, &c. That whereas our Sovereign Lord the King, &c. by his Letters Patent bearing Date the, &c. in the Year of our Lord, &c. did appoint, nominate, and make the within named *A. B.* High Sheriff of the County of *York*, which said *A. B.* afterwards by his Indenture bearing Date, &c. did ordain, depute, constitute, and make the within bounden *C. D.* his Deputy and Under-Sheriff of the said County of *Y.* as by the same Indenture more plainly at large doth and may appear: If the said *C. D.* his Heirs, &c. and every of them do at all Times hereafter, and from Time to Time, for ever clearly acquit, exonerate and discharge, or otherwise sufficiently save and keep harmless the said *A. B.* his Heirs, Executors and Administrators, and every of them, and his and their Goods, Chattels, Lands, Tenements, Possessions and Hereditaments, and every of them, of and from all and every of the Sum and Sums of Money wherewith the said *A. B.* shall be charged, by reason of the said Office of Sheriffwick, and shall fall out not to be answered upon the Account; and of and from all Action and Actions, Plaint or Plaints, Debt or Debts, that shall be commenced against the said *A. B.* his Heirs, &c. by reason of any Escape or Escapes committed, of any Prisoner or Prisoners arrested, and not committed to the Common Gaol of the said County, or afterwards by the Act or Negligence of the said *C. D.* or any the

Bailiff

Bailiff or Bailiffs, or any his Servants or Deputies, and of and from all Actions, Suits, Costs, Losses, Damages, Hinderances and Demands whatsoever, which shall or may at any Time or Times hereafter come, grow, or be to or against the said *A. B.* his, &c. or his or their Goods, Chattels, Lands, Tenements, Possessions and Hereditaments, and every or any of them, for or by reason of the Premises, or any of them; that then this present Obligation, &c.

Or thus :

THE Condition, &c. That whereas the above-named *A. B.* Sheriff of the County of *T.* hath assigned and deputed the above-named *C. D.* his Under-Sheriff: If therefore the said *C. D.* the above-bound *E. F.* and *H. I.* their Heirs, Executors and Administrators, and every of them, do at all Time and Times hereafter, save and keep harmless and indemnified as well the said *A. B.* his Heirs, Executors, Administrators and Assigns, and every of them, as also the Lands, Tenements, Hereditaments, Goods and Chattels of the said *A. B.* of, for, touching and concerning the Returns and Executions of all such Process, Writs and Warrants, of what Nature soever they be, as are or shall be directed to the Sheriff of the said County of *T.* and shall be brought and delivered or offered to be delivered to the said *C. D.* during the Time that the said *A. B.* shall be Sheriff of the said County; and of and from all Issues, Fines and Amerciaments which shall happen to be imposed or taxed upon the said *A. B.* for and concerning the not executing, wrongful executing or detaining in his Hands any Writs, Process or Warrants, and of, for, and concerning all Escapes of all and every Person or Persons that shall be arrested or apprehended by Virtue of any such Process, Writ or Warrant, during the Time that the said *A. B.* shall continue Sheriff of the said County of *T.* And also if the said *C. D.* *E. F.* and *H. I.* their Heirs, Executors and Administrators, and every of them, shall save harmless and indemnified the said *A. B.* and his Heirs and Assigns, and his and their Lands, Goods and Chattels, of, for or concerning all such Account and Accounts as the said *A. B.* is or shall be charged withal as Sheriff of the said County of *T.* to our Sovereign Lord the King, his Heirs or Successors, in any of his Majesty's Courts, and of all Sums of Money which shall be levied or received by the said *C. D.* as Under-Sheriff of the said *A. B.* or any Bailiff, or other Person by the Direction or Assent of the said *C. D.* to the Use of our Sovereign Lord the King, his Heirs or Successors: That then, &c.

*But they are commonly made as all other Bonds are,
for the Performance of Covenants in this Manner :*

THE Condition, &c. That if the above-bounden C. D. do well and truly observe, perform, fulfil, and keep all and singular Covenants, Grants, Articles, Payments, Promises and Agreements, which on the Part and Behalf of the said C. D. his Heirs, Executors, &c. or any of them are to be observed, performed, fulfilled or kept, contained, written, declared or specified in one Pair of Indentures, bearing Date, &c. made between the said C. D. of the one Party, and the within named A. B. of the other Party, according to the Tenor, Purport, true Intent and Meaning of the said Indentures: That then, &c.

*An Indenture for the setting over of Prisoners and Writs
between two Sheriffs.*

THIS Indenture made the tenth Day of December, in the Year, &c. between A. B. Esq; late Sheriff of the County of T. of one Part, and G. D. Esq; now Sheriff of the said County on the other Part; Witnesseth, That the said A. B. by Virtue of his Majesty's Writ of Discharge of his late Office to him directed, hath delivered and set over unto the said C. D. these Writs following: That is to say, a *Capias* against L. M. returnable in eight Days of St. Hillary, at the Suit of N. O. &c. together with the Bodies of E. F. in Execution at the Suit of J. H. for a Debt of an hundred Pounds; and G. R. at the Suit of R. S. in Execution for forty Pounds; and W. P. in Execution as well at the Suit of S. J. for a Debt of ten Pounds, as also at the Suit of T. W. for a Debt of thirty Pounds, &c. In Witness whereof, &c.

*An Indenture of the Knights of the Par-
liament.*

HÆC Indentura facta in pleno Com. Ebor. tenth. apud Castr. Ebor. in com. predicto die Luna vicesimo tertio die Octobris Anna Regni Dom. nostri Caroli Secundi Dei Gratia, Anglia, Scotia, Franc. & Hibernia Regis, Fidei Defensoris, &c. 14 inter A. B. Ar. Vic. Com. predicti ex una parte, & C. D. Ar. E. F. Ar. G. H. Ar. &c. & mult. al. person. Com. pred. & Elector. duor. Milit. ad Parliament. in breve huius Indentur. Consut. Specificat. ex altera parte, qui ut major pars totius Com. pred. tunc ibidem existen. jurat. & examinac. secund. vim, formam & effectum diversorum Statut. in-
de

de edit. & provis. elegerunt R. S. & T. W. Mil. infra Com. prad. commorantes, gladiis cincti. Milites habiles, & magis idoneos & discretos. dantes & concedentes prad. duobus Milit. plenam & sufficient. potestatem pro se & toto Com. prad. ad faciend. & consentiend. hiis que ad Parliament. in dict. brevi content. de Com. Consil. Regni dict. Dom. Regis nunc Angl. contigerit ordinari super negotiis in dicto brevis specificatis. In cujus rei testimonium uni parti hujus Indentur. pener dict. Dom. Regem remanent. partes prad. sigilla sua apposuerunt; alteri vero parti ejusdem Indent. prad. Vic. sigillum suum apposuit. die Dat. anno & loco supradicti.

An Indenture upon chusing of a Burgeses to serve in Parliament.

HÆC Indentura fact. &c. inter A. B. Ar. Vic. Com. Ebor. ex una parte, & Burgeses Burgi & Vill. de S. Gre. ex altera parte, Testatur, quod prad. Burgeses secundum proclamationem per eundem Vic. fact. pro eligend. Burges. in quolibet Burgo five Vill. infra dict. Com. die dat. harum Indentur. apud S. elegerunt, nominaverunt & constituer. C. D. & E. F. Ar. Burgeses ejusdem Vill. de S. ad observand. advisament. & consil. dand. ad supremam Cur. Parliam. Majestatis sue prad. tenend. apud Westm. vicesimo secundo die Augusti prox. sequen. dat. harum presentium. In cujus rei testimonium prefat. Burges. & Municipis his presentib. Indentur. sigill. sua apposuer. & nomina sua subscrips. &c.

A Condition for the executing of a Gaoler'ship.

THE Condition, &c. That if the within bounden C. D. his Executors and Assigns do well and truly execute and use the Office of Gaoler'ship at the Castle of York, for the said County. and also do well, surely and safely keep all and every such Person and Persons now being in the Prison of the Kingdom of England in the said County of Y. or that hereafter shall be committed to the said Gaol. or to the said C. D. and further, that if the said C. D. his Executors or Assigns, at his or their proper Costs and Charges, do safely carry, bring and recarry all Persons in the said Gaol now being, or that at any Time hereafter shall be Prisoners there, to any such Place or Places as the said Sheriff or his Assigns shall appoint or name within the said County of Y. and furthermore, be truly diligent and attending, aiding and assisting the said Sheriff, and his Under-Sheriff and Deputies, at all and every Time and Times when any Execution shall be done within the said County to and upon any Person or Persons attainted, or to be attainted for Treason, Felony, Murder or Heresy, or otherwise, or for any other Cause, unto the End of the Execution:

And

And further, if the said C. D. his Executors and Assigns do discharge and save harmless the said Sheriff, his Heirs, Executors, Administrators and Assigns, against our Sovereign Lord the King, and against all and every other Person and Persons, and from all Manner of Escapes, Damages and Losses, Fines, Issues and Amerciaments, which by the Negligence or otherwise of the said C. D. his Executors or Assigns, that the said Sheriff shall or may in any wise be charged or incumbered with, or ought to be charged by the Law, by reason of the Office of the Sheriffwick of the said County from Time to Time, and do content and pay to the said Sheriff, his Executors or Assigns, all such Sum and Sums of Money as the said Sheriff, his Heirs, Executors or Assigns ought to pay to his Majesty, or to any other Person or Persons, or be due to the said Sheriff, by reason of the said Office of Gaolership, That then, &c.

Or thus :

THE Condition, &c. That if the above bounden A. B. Gaoler to the said Sheriff of the County of York, do from Time to Time receive and take into his Ward and Custody within the Gaol at the Castle of York, in the County of York afore said, all such Person and Persons, Prisoner and Prisoners, which shall be committed or sent to the said Gaol, or committed to the Ward and Custody of the said Gaoler, by the said Sheriff or his Deputy, or by any Justice or Justices of Peace, or by any other having lawful Authority to commit Persons or Prisoners to the said Gaols, and the said Persons and Prisoners so committed as afore said, do well and truly, duly and sufficiently by his own proper Person, or by his sufficient Deputy or Deputies so keep, that the said Sheriff, his Heirs and Executors, and all the Lands, Tenements, Goods and Chattels of the said Sheriff be saved harmless from all Losses, Penalties, Amerciaments and Damages whatsoever, as well against our Lord the King, as also against all other Person and Persons, of, for and concerning the Custody and keeping of the said Gaol and Prisoners within the said Castle of York, and likewise do discharge, save and keep harmless the said Sheriff, his Heirs and Executors, and all those his Lands, Tenements, Goods and Chattels from Time to Time, and at all Times hereafter, of and from all and every Escape and Escapes, as well of convict Persons, Reprieves and Felons, and of all other Persons now committed for any Contempts, Condemnations, Trespasses or Misdemeanours which may happen, or chance hereafter to be committed to the said Gaol, for any the Causes afore said, during the Time the said C. D. shall be Sheriff of the County of York, and likewise that the said

A. B.

A. B. or any other by his Consent, Privy or Appointment, in any wise let to Bail or Mainprize, any Prisoner or Prisoners to him committed as aforesaid, not bailable by the Law of the Nation, without the special Commandment or Appointment of the said Sheriff; And if the said *A. B.* or his sufficient Deputy be ready to give his Attendance upon the said Sheriff and his Deputy at all Times necessary and convenient, and all and every lawful Thing and Things that he shall be required to do by the said Sheriff or his Deputy touching or concerning the, &c. Affairs and Business wherewith the said Sheriff is, or shall be charged or employed, in or about the keeping of the said Gaol or Prison. That then, &c.

An Indenture between the High Sheriff and Gaoler.

THis Indenture made (the Day and Year) between Sir *W. R.* of *N.* in the County of *York*, Knt. High Sheriff of the said County of *York* on the one Part; and *A. B.* of the City of *York*, Gent. on the other Part; Witnesseth; That the said Sir *W. R.* for divers good Causes and Considerations him thereunto moving, doth nominate, constitute and appoint the said *A. B.* to be his Gaoler and Keeper of all and singular the Prisoners and Persons now in Custody within the Gaol and Castle of *York* in the said County of *York*; as also Gaoler and Keeper of all and singular other Person and Persons, as at any Time or Times hereafter during the Time he the said Sir *W. R.* shall continue, and be High-Sheriff of *Yorkshire*, and until he shall assign and set over the said Gaol to the next High-Sheriff, shall be sent, brought or committed to the said Castle of *York*, by the Sheriff, Under-Sheriff or his Deputy or Deputies, Justice or Justices of the Peace, Commissioners of Sewers, or any other Person or Persons whomsoever, having any lawful Authority thereunto; And by these Presents doth grant unto the said *A. B.* all such lawful Profits, Fees and Duties, as are and shall be due unto him as Gaoler of the said Castle, from all and every Person and Persons committed, or to be committed to the said Gaol, during the Time the said Sir *W. R.* shall continue Sheriff of the said County of *York*: And the said *A. B.* doth for himself, his Heirs, Executors, Administrators and Assigns, and every of them, covenant, promise and grant to and with the said Sir *W. R.* his Executors and Administrators by these Presents, that he the said *A. B.* or his sufficient Deputies or Assigns, shall and will from henceforth stand and be charged with all and every the Prisoner and Prisoners in the said Castle, and also receive and take into his Custody and safe keeping in the said Castle, all and every Prisoner and Prisoners, which shall be from Time

to Time hereafter committed or sent unto the said Castle by the said Sheriff, his Under-Sheriff, Bailiff or Bailiffs, Deputy or Deputies, Justice or Justices of the Peace, Justice or Justices of the Assize, *Nisi prius*, Gaol-Delivery, *Oyer* and *Terminer*, Commissioner or Commissioners of Sewers, or other Magistrate or Officer, having a lawful Authority or Power so to do, and the same Prisoner and Prisoners so committed as aforesaid, and all other Prisoner and Prisoners, now being and remaining in the Castle of *York* aforesaid, shall well and truly by himself, his Deputy or Deputies, keep safe and imprisoned according to the Tenor, Purport and Effect of all such Warrants, Precepts or Commandments by Virtue of which, they or any of them shall be, or stand committed or imprisoned, until such Prisoner or Prisoners shall be lawfully delivered, and set free, and at Liberty with the Allowance of his said Sheriff, or his Under-Sheriff: And that the said *A. B.* his Deputy or Deputies, shall not suffer any Prisoner or Prisoners whomsoever to be delivered out of the said Castle or Gaols without a *Liberate*, or some other sufficient Warrant from the said Sheriff or Under-Sheriff, or his, or their Deputy or Deputies under the Seal of the Office, first had and obtained, and such Fees as of Right are, and shall be due, and belonging to the said Sheriff be satisfied and paid: And the said *A. B.* for himself, &c. doth covenant, promise and grant, to and with the said Sheriff his Executors and Administrators, by these Presents, that he the said *A. B.* his Heirs, Executors and Administrators, or some of them, shall and will from Time to Time, well and sufficiently keep harmless and indemnified the said Sheriff and his Under-Sheriff from all Action and Actions, which hereafter shall or may be procured against them, or either of them, their or either of their Heirs, Executors or Administrators, for the Escape or setting at Liberty any Person or Persons, which shall or may be committed to the Custody of the said *A. B.* his, or any of his Deputy or Deputies: And also that the said *A. B.* his sufficient Deputy or Deputies, shall and will at all and every Assize and Gaol-Delivery to be holden at the said Castle of *York*, or elsewhere in the said County of *York*, and at all and every the Sessions of the Peace within the said County, during the Time the said Sheriff shall continue in his said Office, at his the said *A. B.* proper Costs and Charges, find and provide a *Top Hangman* or Slaughterman, for the executing, burning, hanging or quartering, and other the Execution and Correction of Criminals, as also Irons, Bolts, Locks, Manacles and Ropes, as often as Occasion shall be, and shall and will upon Demand deliver unto the said Sheriff, Under-Sheriff and Deputy, the said Castle or Gaol, as also a true and perfect Calendar, containing all the Prisoners Names within the said Castle, and mentioning all the several Causes, of their and every of their

their Imprisonment, and shall from Time to Time well and sufficiently save, defend, keep harmless and indemnified the said Sheriff, his Heirs, Executors and Administrators, of and from all Manner of Actions, Suits, Troubles, Executions, Fines, Penalties, Extents, Damages and Incumbrances whatsoever, for or by Reason or Colour of any Act or Neglect of him the said A. B. his Deputy or Deputies, Servants or Assigns; and that he the said A. B. his Executors, Administrators and Assigns, shall upon six Days Notice, as Warning, left with the Porter or Keeper of the Gates of the said Castle, give better and further Security for the safe keeping of the Prisoners committed to the said Gaol, and to perform all Covenants, Promises and Agreements in these Presents contained, which on his and their Parts are to be observed and performed. In Witness, &c.

Articles between the High Sheriff and a Bailiff of a Wapentake or Hundred.

ARticles of Agreement indented and made the tenth of March, in the Year, &c. between A. B. of R. in the County of T. Esq; High-Sheriff of the said County of the one Part, and C. D. of B. in the said County, Gent. of the other Part.

To be Bailiff during the Pleasure of the Sheriff.

Whereas the said A. B. by his Deputation under the Seal of his Office, hath constituted and appointed the said C. D. to be his Bailiff within the Wapentake of Excessi, to execute and enjoy the same Office only during the Pleasure of the said A. B. Now it is covenanted and agreed between the said Parties, and the said C. D. for himself, his Executors, Administrators and Assigns, for the Considerations aforesaid, doth covenant and grant unto, and with the said A. B. his Heirs, Executors and Administrators in Manner following:

To execute and return Writs.

First, That the said C. D. shall and will during such Time as he shall execute the said Office, well and sufficiently perform, and do whatsoever to the said Office belongeth, as well within the said Wapentake as without: And shall with Speed and Secrecy serve and execute, or cause to be served and executed, all and every Precept and Warrant to him directed by the said High Sheriff or Under-Sheriff. And shall make a true Return thereof to the said Under-Sheriff or his Deputy, by the space of four Days before the respective Returns thereof: And shall likewise from Time to Time save and keep harmless the said High Sheriff, his Heirs, Executors and Administrators, Lands, Tenements, Goods and Chattels, of and from all Escapes, Amerciaments, Fines and Sums of Money, or other Charges and Incumbrances whatsoever, which shall or may

may be imposed, or happen upon the said High-Sheriff, for or concerning the executing or returning of them, or any of them.

2. *Item*, That he the said *C. D.* his Executors or Assigns, shall well and truly pay, or cause to be paid to the said Under-Sheriff or his Assigns, at his Office in the City of *T.* or elsewhere, the Blank-farm due to his Majesty within the Wapentake, within six Days next after the Annunciation of the blessed Virgin *Mary*, and *Michael* the Archangel, by equal Portions; and shall likewise at his own proper Costs and Charges faithfully and truly levy, collect and gather all and every Sum and Sums of Money of what Nature soever within the said Wapentake, as are, and shall from Time to Time grow due and payable to his Majesty, or which are and shall be within the Charge of the said Sheriff, and estreated, and given in Charge to the Collection of the said *C. D.* or his Assigns; and shall within three Weeks next after any Estreat or Warrant to him directed for the levying and collecting thereof, pay, or cause the same to be paid unto the said Sheriff or his Deputy at *T.* or elsewhere, or make his personal Appearance there, to give a just Account for what Cause he hath not collected nor levied the same.

He shall truly pay to the Under-Sheriff the Blank-farm within the said Wapentake, and levy all Money within the said Wapentake due to the King.

3. *Item*, That the said *C. D.* shall diligently enquire of the Goods and Chattels of Felons and Fugitives, and of all Persons outlawed and condemned, and of Goods and Chattels waived, estrayed and escheated within the same Wapentake. And of the same shall lawfully make an Inventory and seize into his Majesty's Hands, as Bailiff of the said Wapentake; and shall likewise truly account for and deliver, or cause to be delivered unto the Hands of the said Sheriff or his Deputy, the Goods so seized and inventoried, within one Month next after such Seizure and Inventory made.

To secure Goods waived and forfeited.

4. *Item*, That the said *C. D.* shall from Time to Time give lawful Summons and Warning to all such Persons, Jurors and Freeholders, as shall from Time to Time by Warrant from the said High-Sheriff or Under-Sheriff, be appointed to appear before his Majesty, his Justices of Assize or Gaol-Delivery, Justices of the Peace, or before any other Person or Persons having any lawful Authority to summon the same Persons, and that he himself shall personally attend at the same Assize and Gaol-Delivery, Sessions of the Peace, and at the Common Court, to make his Returns, and do all the Services belonging to the Bailiff of a Wapentake, if he be in Health or able to perform the same, or otherwise by his sufficient Deputy to be allowed under the High Sheriff's Seal of Office.

To summon Jurors

T

5. *Item*

To take a
Book of
Freehold-
ers. And
shall save
harmless
the Sheriff
from all
Issues and
Amercia-
ments, &c.
for not re-
turning or
mis-return-
ing of any
Freeholder.

5. Item, That he the said C. D. shall before the 12th Day of January next coming, deliver or cause to be delivered unto the Hands of the High-Sheriff or Under-Sheriff, one Paper-Book fairly written, containing the Names, Surnames and Additions, together with the Dwelling-places of all such Freeholders as are now dwelling and resident within the said Wapentake of *Excroft*, and shall likewise save and keep harmless the said Sheriff, his Lands and Tenements, Goods and Chattels, of and from all Issues and Amerciaments which shall or may be charged upon them, or any of them, for and by reason of returning, not returning, or mis-returning of any Freeholder or Freeholders by the said C. D. or his Deputies.

To secure
Persons
arrested.

6. Item, That the said C. D. his Deputy or Deputies, shall bring or cause to be brought to the Castle of *X.* all such Person and Persons, as shall by them or any of them be arrested by Virtue of any Warrant or Warrants, upon any *Capias utlagatum* or *Capias ad satisfaciendum*: And that likewise upon all Arrests of Persons bailable, take sufficient Bond with two Sureties for their Appearance at the Return of the Writ, and the said Bonds so taken shall deliver unto the Under-Sheriff or his Deputy, by the Space of six Days before the respective Days of their several Appearances.

To secure
Goods
levied.

7. Item, That neither the said C. D. nor any of his Deputies make any Sale of any Goods by him or them, or either of them, seized or taken for any of his Majesty's Debts, or upon any Execution between Party and Party. Nor shall detain or keep in his or their Hands any Goods so taken by the Space of four Days, but shall bring, send or deliver the same unto the said Under-Sheriff, his Deputy or Deputies, with a true Copy of their Appraisements, and the Names of the Appraisers, in case the Owners or some Friends for them shall deny to take them as they are apprized, or to pay the Debts and Sums for which they were so seized and taken, together with the reasonable Charges expended concerning the same.

To account
for and pay
Fees due to
the Sheriff.

8. Item, That the said C. D. his Deputy and Deputies, and every of them, shall from Time to Time, within six Days after Notice or Command to him or them given by the said High-Sheriff or his Deputy, repair and come to his Office at *X.* or elsewhere, and then and there make a just and perfect Account, for and concerning all Fees, as well for Arrests and Perquisites of Courts, as for all other Dues and Profits unaccounted for whatsoever, and which he and they, or any of them, shall have received and taken, during such Times as he the said C. D. shall continue Bailiff of the said Wapentake, which of Right belongeth unto his Majesty, or the said now Sheriff, or his Under-Sheriff. And the said High-Sheriff or Under-Sheriff, upon his true Account so to be made by the said

said C. D. shall return unto him the said C. D. all the Overplus of the said Sum so deposited by the said C. D. to the said High-Sheriff or his lawful Deputy, as shall remain in his the said Sheriff's Hands after the perfecting of the said Account.

9. Item, That he the said C. D. shall after the several general Assizes and Gaol-Delivery, and Sessions of the Peace, be present and ready in his own Person, safely to carry and conduct the Prisoners condemned to the Place of Execution, and not to depart thence without Licence from the High-Sheriff or Under-Sheriff; and shall likewise from Time to Time so often as he shall be thereto required by the said Sheriff, Under-Sheriff or his Deputies, be ready to aid and assist them, or any of them, for the apprehending of any Traytor, Priest or Felon, or for any other Matter or Thing whatsoever, concerning his Majesty's Service within the said County. In Witness whereof, &c.

The Bond for the Performance of these Articles is ordinarily made as all other Bonds are for the Performance of Covenants.

A Bond entred to a Sheriff for one's Appearance in the Common Bench.

Noverint universi per presentes nos A. S. de S. in Com. Ebor. Gen. C. D. de R. in dist. Com. Ar. & B. F. de T. in Com. pred. Yeoman, teneri & firmiter obligari G. M. Ar. Vic. Com. prad. in 30 l. bona & legalis moneta Anglia solvendi eidem G. M. aut suo certo in hac parte Attorn. Executor. vel Assign. suis ad quam quidem solutionem bene & fidelit. faciend. obligamus nos & quemlibet nostrum per se pro toto & in solid. Hæred. Executor. & Administrator. nostros firmiter per presentes Sigillis nostris figillat. Dat. 20 die Junii, Anno Regni Dom. nostri Caroli Secundi Anglia, &c.

The Condition.

THE Condition of, &c. That if the above-bounden A. B. do appear before the Justices of the Common Bench at Westminster, in the Morrow of the Holy Trinity to answer M. N. Gent. in a Plea of Debt; That then this present Obligation to be void, &c.

In the King's Bench thus :

THE Condition, &c. That if the above-bouden *A. B.* do appear before our Sovereign Lord the King at *Westminster*, on *Saturday* next after the Morrow of *St. Martin*, to answer to *M. N.* of a Plea of Trespass, That then, &c.

Note, That King's Bench Writs are always returnable upon a Day certain, as on *Monday*, *Tuesday* or *Thursday*, &c. next after the Morrow of *St. Martin*, &c. and are always in Trespass, until of late by Act of Parliament the Cause of Action is to be especially inserted. But Common Bench Writs are in Debt, Trespass, Account, Trespass upon the Case, &c. as the Case requires, and are not returnable on a certain Day, but returnable on the Morrow of the Holy Trinity, or the Morrow of *St. Martin*, &c.

An Indenture of Covenants to a Sheriff to save him harmless for returning a Devastavit against an Executor.

THIS Indenture made, &c. between Sir *A. B.* Knight, High Sheriff of the County of *X.* and *C. D.* Gent. Under Sheriff of the said High Sheriff of the said County of *X.* of the one Part, and *E. F.* of, &c. of the other Part, Witnesseth, That whereas the said *E. F.* hath obtained and sued out of his Majesty's Court of Common Pleas at *Westminster*, his Majesty's Writ of *Fieri facias* to the said Sheriff directed, bearing *Teste* the 29th Day of *June* now last past, and returnable in the said Court in eight Days of the Holy Trinity last past, thereby commanding the said High Sheriff to levy of the Goods and Chattels which late were of *P. K.* of, &c. deceased, at the Time of his Death in the Hands of *W. T.* Executor of the Testament and last Will of the said *P. K.* the Testator, a certain Debt of 200 *l.* which the said *E. F.* in the said Court hath recovered against the said *W. T.* the Executor, as by the said Writ now delivered to the said Sheriff in Form of Law to be executed, more at large appeareth.

And whereas the said *E. F.* hath informed the said High Sheriff and Under-Sheriff, that divers Goods, Chattels and Debts, which were the said *P. K.*'s the Testator, at the Time of his Death, to the Value of his said Debt of 200 *l.* after the Death

Death of the said *P. K.* the Testator, came to the Hands of the said *W. T.* the Executor within the said County to be administered; and that the Executor since the Death of the said *P. K.* the Testator, hath wasted the same, so that unless the said Sheriff shall upon the said Writ of *Fieri facias* make his Return to this or the like Effect, viz. That the said Goods and Chattels, which were the said *P. K.*'s the Testator at the Time of his Death, to the Value of the said 200*l.* did after the Death of the Testator come to the Hands of the said Executor within the said County of *T.* to be administered; and that the said Executor hath wasted the same, so that the said Sheriff cannot by Virtue of the said Writ of *Fieri facias* do Execution thereupon of the Goods and Chattels as is thereby required: And so that also the said *E. F.* cannot by Course of Law have the Benefit of the said Recovery; whereupon the said High Sheriff and his Under-Sheriff, being desirous to do what to them, or either of them, by Virtue of their said Office appertaineth, for the Furtherance of Justice in that Behalf, giving Credit to the said Assertion and Affirmation of the said *E. F.* the said High Sheriff at his earnest Request hath upon the said Writ of *Fieri facias* in Form of Law returned to his Majesty's Justices of the said Court of Common Pleas, a *Devastavit* of the Goods and Chattels, which were the said Testator's at the Time of his Death, and came to the Hands of the said Executor to be administered to the said Value of the said Debt of 200*l.* Now therefore these Presents do Witness, that the said *E. F.* and *T. P.* for the Indemnity and saving harmless of the said High Sheriff and Under-Sheriff, and of their and either of their Clerks, of, for and concerning the making of the said Return, in case the Assertion and Information of the said *E. F.* be not true, do by these Presents, covenant and grant jointly and severally for themselves and every of them, and for their and every of their Executors or Administrators, to and with the said *A. B.* and *C. D.* and either of them, their and either of their Executors and Administrators, that they the said *E. F.* and *T. P.* or some of them, shall and will at all Times hereafter discharge, acquit and save harmless the said *A. B.* and *C. D.* and either of them, their and either of their Clerk or Clerks, and the Heirs, Executors and Administrators of them and every of them, for and concerning all, and all Manner of Actions, Suits, Complaints, Losses, Vexations and Troubles whatsoever, which shall at any Time hereafter be commenced, attempted, brought or prosecuted against them, or any of them, by the said *P. K.* the Executor, his Executors or Administrators, or by any other Person or Persons, touching or concerning the said Return, or by Reason or Occasion thereof: And shall and will from Time to Time bear and pay to them the said Sir *A. B.* and *C. D.* all such Sum and Sums of

The re-
turning the
Devastavit

They bind themselves in the Penalty of 300 l. for the Performance of Covenants.

Money, Damages, Cost and Expences, as against them, or either of them, or against their or either of their Executors or Administrators, shall be adjudged, decreed or ordered, or which they or any of them shall from Time to Time by Reason or Occasion aforesaid, be put unto, or shall necessarily lay out, or be enforced to pay by Reason of any such Action, Suit, Complaint, Molestation, Vexation or Trouble: And for the true Performance of all and singular, which said Premises the said E. F. and T. P. do by these Presents bind themselves jointly and severally, and their and either of their Heirs, Executors and Administrators, to the said Sir A. B. and C. D. in the Sum of 300 l. of good, &c. to be paid to them, or either of them, their, or either of their Executors or Administrators, if Default or Breach of the Covenant aforesaid shall be made. In Witness, &c.

An Affidavit upon a Rescue.

Whereas A. B. Esq; High Sheriff of the County of Y. upon a *Capias utlagatum* to him directed issuing out of his Majesty's Court of Common Pleas at Westminster, did direct his Warrant to R. D. and G. J. Special Bailiffs in that Behalf deputed, and to either of them, jointly and severally commanding them thereby to arrest, take and apprehend R. G. Gent. and him safe keep, so that the said Sheriff might have his Body before his Majesty's Justices at Westminster, in *Crastino Ascensionis Dom.* then next following, and now last past: He the said R. D. maketh Oath, that upon the first Day of M. last past, he the said R. D. by Virtue of the said Warrant at M. in the said County of Y. did apprehend, arrest and take into his Custody and keeping the said R. G. and him detained as a Prisoner by the Space of an Hour, or thereabouts: And further saith, that presently after, that is to say, upon the same first Day of May, J. H. of M. aforesaid in the said County, Yeoman, did with Force and Arms make an Affray upon the said R. D. and that the said J. H. and M. his Wife, and T. P. of M. in the said County of Y. Yeoman, did with Force and strong Hand rescue and set at Liberty the said R. G. from the Custody, and against the Will of the said R. D. and did then and there, with Force and strong Hand, beat, bruise and evil intreat the said R. D. notwithstanding he the said R. D. did then and there request the said J. H. M. and J. P. and every of them, to aid and assist him in the said Arrest. *For*

A Condition of a Bond from a Deputy Bailiff to a Chief Bailiff.

THE Condition, &c. that whereas the above-named *W. B.* being Chief Bailiff of the Wapentake of *Onse* and *Darwent* under *A. B.* Esq; High Sheriff of the County of *Y.* hath at the special Instance and Request of the above-bounden *C. D.* permitted, nominated and appointed him the said *C. D.* to be a Deputy-Bailiff under him the said *W. B.* during the Pleasure of the said Sheriff, as by a Deputation under the said Sheriff's Seal, doth more at large appear. If therefore the said *C. D.* shall from Time to Time, during all the Time he shall continue Deputy-Bailiff under the said *W. B.* well, faithfully and honestly execute the said Place or Office of a Deputy-Bailiff in every respect; and shall be obedient to all the lawful Commands of the said *W. B.* and give a true, just and full Account of his Doings therein to the said *W. B.* or his Assigns, made to the said *C. D.* and likewise shall at all Times hereafter, well and sufficiently save, defend and keep harmless the said *W. B.* his Heirs, Executors and Administrators, and every of them, and every such Person and Persons, as are become Sureties to the said High Sheriff for the said *W. B.* concerning his Office of a Chief Bailiff as aforesaid, of and from all and all Manner of Action and Actions, Suits, Troubles, Losses, Payments of Money and Incumbrances whatsoever, which may any way happen to be against him, them, or any of them, for or by reason of any Act, Neglect or Misdoing of the said *C. D.* in the aforesaid Office of a Deputy-Bailiff, under the said *W. B.* That then, &c.

A Discharge to the Sheriff (for a Prisoner) from him to whom the Prisoner is indebted.

Now all Men by these Presents, That I *A. B.* of *C.* in the County of *Y.* have remised, released, acquitted and discharged, and by these Presents do for me, my Heirs, Executors, Administrators and Assigns, remise, release, and fully and absolutely acquit and discharge *E. F.* High Sheriff of the said County of *Y.* and *G. H.* his Under-Sheriff, their Heirs, Executors and Administrators, of and from all and all Manner of Escapes, as well voluntary as negligent, and of and from all Actions, Cause and Causes of Actions, for or concerning the enlarging or setting at Liberty of the Body of *L. M.*

Precedents.

taken at my Suit by Virtue of a *Capias ad satisfaciendum* to the said Sheriff directed, of ten Pounds Debt, and forty Shillings Costs of Suit, returnable in the Court of Common Pleas in Easter Term last past; and I the said *A. B.* do hereby discharge the said Sheriff from all Actions, Reckonings, Duties and Demands whatsoever, concerning the executing of the said *Capias ad satisfaciendum* In Witness whereof, &c.

Or thus;

K Now all Men by these Presents, that I *A. B.* of, &c. have remised, released and quit-claimed, and by these Presents do remise, release and quit-claim unto *C. D. Esq;* now Sheriff of the said County of *T.* all manner of Actions, Suits, Troubles and Incumbrances whatsoever, which I might, may, or ought to have against him for or concerning the discharging, or setting at Liberty of *L. M.* of *N.* in the said County, *Gent.* being arrested and imprisoned upon a *Capias ad satisfaciendum*, out of the Court of Common Pleas at Westminster for an hundred Pounds Debt, and twenty Shillings Costs, at my Suit, returnable from the Day of Easter in one Month last past. In witness whereof I have hereunto set, &c.

Or thus:

K Now all Men by these Presents that I *T. E.* of *C.* in the County of *T.* Yeoman, have had allowed unto me by *T. H.* in the Purchase of certain Lands and Tenements at *C.* aforesaid; the Sum of 12 *l.* in full Satisfaction of the Judgment entered in the Court of Common Pleas at Westminster against the said *A. B.* at my Suit for 10 *l.* Debt, and 40 *s.* Damages, and in Discharge of the Execution upon the same Judgment, and what else I can demand of the said *A. B.* being now a Prisoner in the Castle of *T.* at my Suit; and therefore I do hereby discharge him from the said Execution and Imprisonment, and do request the Sheriff of the said County for any Action or Execution, that is against the said *A. B.* at my Suit to set him at Liberty: And for the said Sheriff, or any of his Officers so doing, this shall be his, and their, and every their sufficient Warrant. Witness my Hand and Seal, &c.

A Condition that the Sberiff executing a Writ, may detain out of the Goods and Lands extended, so much Money, &c.

TH E Condition, &c. That whereas the within bound *A. B.* the Day of the Date hereof, hath delivered to the Hands of the within named *C. D.* and *E. F.* the Writ of Execution, for levying and extending the Goods, Chattels, and Moiety of the Lands, Tenements and Hereditaments of one *G. H.* of, &c. to and for the Use of the said *A. B.* whereby the same *A. B.* may be satisfied of the Sum of 200 *l.* mentioned in the said Writ, if in case the said *C. D.* and *E. F.* or either of them, do lawfully execute, or cause to be lawfully executed, the said Writ according to the Nature, Meaning and Purport thereof, by the impanelling of twelve lawful and indifferent Men to be sworn of the Contents of the said Writ, if then the said *A. B.* his Executors and Administrators, do quietly permit and suffer the said Sheriff or Under-Sheriff to have, take, receive and detain to his and their own proper Use and Behoof, out of such Monies, Goods or Chattels, as shall be had, levied or received by Vertue of the said Writ, or the Execution thereof, so much in lawful Money of *England*, or other Benefit, as they or the said Sheriff or Under-Sheriff, or one of them, shall think reasonable or sufficient for their Satisfaction of and for such Travel, Pains or Charges as they shall be at, in and about the Execution of the said Writ, and Extent thereupon to be had or made; otherwise within, &c. next after the said Writ shall be executed, and Return made thereof, accordingly do pay, or cause to be paid unto the said Sheriff or Under-Sheriff, or their Deputy or Deputies, so much lawful Money of *England*, as they shall for the Causes aforesaid reasonably demand, That then, &c.

A Mittimus by the County-Clerk upon an Exigent.

J. *B. Armiger Vic. Com. prad. Custodi Gaola Domini Regis Castri sui Eborum & ejus Deputas. salutem Vobis mando quod Corpus J. M. qui reddidit se prisionarium super breve Domini Regis de Exigi facias mihi directi. ad secllam ipsius Domini Regis & T. B. qui tam, &c. in placito debiti super demand. ducent. & viginti librarum salvo Custod. secundum tenorem prad. brevis de exigi facias. Et hoc, &c. dat. sub sigillo officii, &c.*

A Bar.

*A Bargain and Sale of Goods made by the Sheriff, by
Vertue of his Office.*

TO all People to whom this present Writing shall come,
Sir H. B. Knight, Sheriff of the County of *Y.* greeting.
Whereas by Vertue of his Majesty's Writ of *Fieri facias* to me
directed out of his Majesty's Court of Common Pleas at *West-*
minster, for the levying of 100 *l.* Debt, and 40 *s.* Damages,
which Sir H. B. Knight, Lord Chief Justice of the said Court
of Common Pleas, hath recovered in the said Court against
E. F. Administrator of the Goods and Chattels which late were
J. R.'s late of *R.* in the said County, *Gent.* deceased, at the
Time of his Death, to be levied upon the Goods and Chattels,
which late were the said *J. R.*'s at the Time of his Death in
the Hands of the said *E. F.* to be administred, if so much of
them do remain in the Hands of the said *E. F.* to be admini-
stred; and if not, then the Damages to be levied of the pro-
per Goods of the said *E. F.* as by the said Writ returnable
from the Day of the Holy Trinity in three Weeks, more at
large appeareth: I have taken into my Hands all and singular
the Goods and Chattels mentioned in an Inventory hereunto
annexed, being the Goods and Chattels which late were the
said *J. R.*'s at the Time of his Death, and found in the Hands
of the said *E. F.* unadministred.

Now know ye, That I the said High Sheriff, by Vertue of
the said Writ, and of my Office, and for and in Consideration
of the Sum of 200 *l.* of good, &c. to me the said High She-
riff in Hand paid, do hereby as much as in me lieth, by Ver-
tue of my said Office, fully and absolutely bargain, sell and
deliver to the said *E. F.* his Executors, Administrators and
Assigns, all and singular the said Goods and Chattels, To have
and to hold, and enjoy the same unto the said *E. F.* his Exe-
cutors and Administrators for ever. In Witness whereof I
have hereunto set my Seal of Office the tenth Day of *May*, in
the Year of our Lord, 1658.

*A Warrant of Attorney by the Sheriff to return
Writs in the Court of Common Pleas.*

Ebor. H. I J. Miles Vic. Com. prad. ponit loco suo I. H. ad resi-
piend. apperiend. & retornand. omnia & singula bre-
via Warranta & Præcepta eidem Vic. ut Vic. Com. prad. direct. &
diri-

dirigend. coram Justic. Domini Regis de Banco retornabil. & retornand. secundum formam Statuti nuper edit. & provis.

A Warrant to levy the Exchequer Fines.

Ebor. ff. **I** R. Armiger Vic. Com. pred. omnibus & singulis ballivis meis in Com. predicto & eorum deputat. salutem Virtute brevis, &c. mando quod non omittatis propter aliquam libertatem in Com. predicto quin. eam ingred. Et de bonis & catallis terris & tenementis separalium personarum in schedula sive libro huius Warranto annex. nominat. & specificat. fieri faciatis seu unus vestrum fieri faciat separales denariorum summas super ipsos & eorum quemlibet onerat. sive ab eis vel eorum aliquibus exact. Ita quod denarios illos habeam coram Baronibus de Scaccario dicti Domini Regis apud Westm. indilate. Et de tempore in tempus eosdem denarios mihi solvetis seu unus vestrum mihi solvet ut eos levaveritis. Et hoc nullatenus omittatis periculo incumbente Dat. sub sigillo officii mei, &c.

A Warrant to warn a Jury to appear at Westminster.

T D. Miles Vic. Com. predicti omnibus, &c. virtute, &c. mando quod non omittas propter aliquam libertatem Com. predicti quin. sumon. seu unus vestrum sumon. & venire faciatis separales personas quorum nomina subscribuntur. Ita quod sint & quilibet eorum sit coram dicto Domino Rege apud Westm. die veneris prox. post, &c. ad recogn. super Sacramentum suum si A. B. culpabilis sit de quibusdam proditionibus personam dicti Domini Regis tangen. unde indictat. est necne. Et hoc, &c. dat. sub sigillo, &c.

Deputation to convey a Prisoner upon a Habeas Corpus.

A B. Esquire, Sheriff of the County of Y. to all to whom these Presents shall come greeting: Whereas I have received his Majesty's Writ to me directed, whereby I am commanded to have the Body of W. H. Gent. now Prisoner in my Custody, before his said Majesty on Wednesday next

next after, &c. to undergo and receive, &c. as by the said Writ more at large appeareth: Now know ye, that I the said Sheriff have nominated, deputed, authorized and made, and by these Presents do nominate, depute, authorize, and make A. B. C. D. and E. F. of the City of Y. and every of them, to be my Deputies, and for them, or any of them, to take and receive into their or any of their Custodies, the said W. H. and him to convey to Westminster, and there have his Body at the Day afore said, together with the said Writ and Return, to deliver into the said Court, and to do and perform for me what is by me there to be done. Given under the Seal of my Office (the Day and Year.)

THE

THE JUDICIAL AND Ministerial Office OF CORONERS.

THIS Office of Coroner hath its Etymology and Derivation from *Corona*, being an Officer of the Crown from Antiquity, and hath principal Cognizance of some Pleas called *Placita Corone*. Coroner, whence derived.

He was established by the ancient Kings, *Alfred*, &c. to be *Principalis conservator pacis*, according to the *Mirror of Justice*, which saith, *Auxi ordans fuer Coroneurs in chescun County, & Viscounts a garder le Peace, quant les Countees soy demisterent del gard; & Bailiffs in lieu de senteners* (that is) Coroners in every County, and Sheriffs were ordained and constituted to be Conservators of the Peace, when the Earls dismissed themselves of the Custody of the Counties, and Bailiffs in Place of Hundredors: But of his Antiquity and Jurisdiction, see 2 *Instit. Magna Charta*, cap. 17. *Merton*, cap. 3. *Redifseisin*, and *Westm.* 1. cap. 10. and 26. and *Articul. super Chartas*, cap. 3. Time and Reason of his Institution.

This Office of Coroner is } General
and
Special. }
General.

1. General.

Mirror,
c. 1. Sect. 13.

TO the Office of general Coroners appertains the receiving of the Appeals of the whole County, of Felonies committed within the Year; to award the Exigents upon County-Days (of which see more in the County-Court) and likewise in what Pledge or Decenary they were, or of whom mainprised, and in whose Ward.

2. Special.

Artic. Super
Chart. c. 3.

Art. 3. H. 8.
c. 12.

Finch Ley
lib. 3. c. 24.

Special Coroners are Coroners of Liberties, and of privileged Places, as Coroner of the Verge, viz. Coroner of the King's Household, &c. To demonstrate the Distinction of the Authority and Jurisdiction of general and special Coroners; see *Wrota and Wigg's Case*, Rep. 4. fol. 45, 46. where it was resolved, That at Common Law the Coroner of the King's House had an exempt Jurisdiction within the Verge, and the Coroner of the County cannot intermeddle therein, as appears by the Preamble of the Statute of *Articuli Super Chartas*; because that before this Time many Felonies done within the Verge have been unpunished; and the Reason and Cause thereof was, because the Coroners of the County are not suffered to interpose to enquire of Felonies within the Verge, but the Coroner of the King's Household, which is palant. By which it appears, That the Coroner of the County could not intermeddle with the Death of a Man within the Verge, but the Coroner of the Household only. And so was it adjudged. *Rush. 24 Eliz.* in the King's Bench, where *Swife* was indicted before the Coroner of the County of *Middlesex* of a Murder done at *Tushil* in the said County of *Middlesex*, which Indictment was removed into the King's Bench, and there *Swife* pleaded, that *Tushil* was at the Time of the Murder, and yet is within the Verge, &c. upon which the Attorney did demur in Law, and it depended in Advise ment three Terms, and at length the Plea was adjudged good, and thereupon he was discharged of the Indictment; for as the Coroner of the Household cannot intermeddle within the County out of the Verge, because his Office extended not to it: So the Coroner of the County cannot intermeddle within the Verge; and it shall be contrary to Reason, that their Offices and Jurisdictions being several and distinct, the one should intermeddle within the Jurisdiction of the other. But it was resolved, that the Justices of the King's Bench, Justices of Oyer and Terminer, Gaol-Delivery, and Justices of Peace, may

may enquire of, hear and determine all Murders and Felonies within the Verge, because their Authority and Jurisdiction are general through the whole County, and always hath been so used, and so was adjudged without any Scruple in *Halcroff's* Case.

What Person ought to be Coroner, and how qualified.

OF ancient Time this Office was of such Estimation, that none could have it but a Knight; if we look back to the Statute of *Westm. 1. cap. 10.* and the Current of the Writ in the Register, *fil. 177. b.* is, *Nisi sit Miles, &c.* and such an one, *Qui melius sciat, & possit officio illi intendere*: For this was the Policy of prudent Antiquity, that Officers did ever give a Grace to the Place, and not the Place (only) to grace the Officer: Therefore it was holden a principal Cause to remove and discharge a Coroner if he were not a Knight, and had not a hundred Shillings Rent of Freehold. Yet in *F. N. B. Coronatore eligendo*, it is not allowed a valid and sufficient Cause to remove him, (though he be not a Knight) at this Day, alledging, That those Words were inserted into the Statute, to the Intent that a Coroner should have sufficient within the County to be responsible for all that he doth or ought to do by his said Office. Mr. *Will.* in his Office of a Coroner also saith, That this Statute requireth such a Coroner as can, will, and may attend to execute the said Office: And therefore (saith he) if such a Coroner be elected, as cannot, will not, or may not attend the Execution of the said Office, he is to be removed and discharged by Writ from the same Office; and the Cause of his not Attendance, Debility or Insufficiency must be rehearsed in the Writ: And if he be discharged of his Office by a false Suggestion, he may by a Petition in Chancery pray a Commission to enquire of this false Suggestion, and if it be found, and returned into the Chancery, then his Majesty may grant a *Supersedeas* to the Sheriff of the County, that he remove not the said Coroner from his Office; and if he be removed before the *Supersedeas* come, then that he permit the Coroner removed to execute his Office as he did before his Removal.

He must have two Properties, *viz.* sufficient Knowledge, Ability and Diligence in executing his Office. Sir *Edward Coke* in the second Part of his *Institutes, Westm. 1. cap. 10.* saith, he should have five Properties, *viz.*

See Brit.
a. 3. fol. 3.
S: aurf. pl.
coron. 84.
c. Register,
177.

*F. N. B. de
Coronatore
eligendo
& de ele-
ctione Viri-
darii.*

*Co. Inst. 2.
fol. 174. C.
175.*

The Office of a Coroner.

1. He should be *præbus homo*.
2. *Legalis homo*.
3. Of sufficient Understanding and Knowledge.
4. Of good Ability and Power to execute his Office according to his Knowledge.
5. Diligent in executing of his Office.

And the Common Law doth not only require expert Men to be Coroners, but Men of sufficient Ability and Livelihood for three Purposes, *viz.*

1. The Law presumes they will do their Duty, and not offend the Law, for fear of Punishment, whereunto their Lands and Goods be subject.

2. That they might execute their Office without Bribery.

3. That they be able to answer to the King all such Fines and Duties as appertain to him, and to discharge the County thereof, wherewith the County being their Elestots were chargeable. For the Coroners being elected by the County, if they be insufficient, and not able to answer such Fines and other Duties in respect of their Office, as they ought, the County as their superior shall answer the same. As for Example, the County of Kent made Election by Force of the King's Writ of *William Herlizon* to be one of the Coroners for the same County, who after was amerced for a false Return of forty Shillings, whereupon Process went out to the Sheriff to levy it: The Sheriff upon his Oath said, That the said *William Herlizon non habet terras vel tenementa, bona seu catalla in balliva sua, nec habuit, unde dicti. denarii levare possint*. Now saith the Record, *Et quia ipse Coronator electus fuit per comitatum, &c. ita quod in defectu ejusdem Coronatoris totus Comitatus ut elector &c. superior, &c. tenetur regi respondere, preceptum fuit nunc vicecomiti quod de terris &c. tenementis hominum totius Comitatus in balliva sua fieri fac. præd. 40 s.* And the like Law was of the Sheriff, and other the said Officers, when they were eligible.

*In Scaccar.
inter præ-
cept. term.
Hill. 14.
E. 3. ex
parte re-
man. regis
20 H. 9.*

*They con-
tinue in
Power on
the Demise
of the King.
Dyer El.
fol. 165.*

*Dalton's
Justice of
Peace.*

They remain Conservators of the Peace within the County where they are Coroners, notwithstanding the King's Death, for being elected by the Freeholders of the County by Writ, and returned of Record in the Chancery, which is a judicial Act, remaineth; and so of the *Verderer*: It is otherwise of Judges and Justices that hold their Place by Writ, Commission, Letters Patent, or otherwise, at Will, whose Authority is determined by the Death of the King, for by the Commission, &c. he makes them *Justiciarios suos*; so that he being once dead, they are no more his Justices. And it might be a Reason wherefore the Sheriff of ancient Time was eligible, for that

that he had *Custodiam Comitatus*, and principal Conservator of the Peace; and therefore his Authority should not cease by the Death of the King no more than that of the Coroner.

Of the Number of Coroners in each County.

THE Number of Coroners are not set down by the Law; in some Counties there are four, in some Counties six, in some Counties fewer, and in some but one. *23 Aff. P. 7. 14 H. 4. 34. 39 H. 6. 40. F. N. B. 163. last. 2. Westm. 1. cap. 10.* but in twelve Shires in Wales, and in Cheshire there are but two. *Vid. Lamb. Inf. 16. b. Statuts 48.*

Finch. fol. 199.

Of the Power and Jurisdiction of Coroners.

THE Coroner's Power is duplicate, viz.

1. Judicial.

2. Ministerial.

1. The Judicial Authority both of a general and special Coroner is in Case where a Man comes to a violent Death, by Felony or Mischance, and to take the Acknowledgment of Felony, to take the Inquest of Felonies happening within his Liberty, to give Abjurations, and pronounce Judgment upon Outlawries, Appeals of Death by Bill, &c. solely to take an Indictment *super visum corporis*, and to take and enter an Appeal; but he can proceed no further upon the Indictment or Appeal, but to deliver them over to the Justices; and to enquire of Treasure Trove, and Wreck of the Sea, &c. But if you will enquire more amply what anciently appertained to him, read *Bracton, lib. 3. tract. 4. cap. 5. De Officio Coronatorum circa homicidium*; and *cap. 26. De Officio Coronatoris in thesauris inventis*; and *cap. 6. De Officio Coronatorum in rapta virginum*; and *cap. 1. De Officio Coronatorum de pace & plagis*; and *Britton* in his first Chapter, where he treats of it at large: And *Fleta, lib. 1. cap. 18.* But more amply in *Staundford's Pleas of the Crown, lib. 1. cap. 51.*

Co. 2. Inst. Mag. Chart. cap. 17.

It is amply expressed in *F. N. B. fol. 186.* that the Coroner shall carry the Records of his own View, Abjurations, Outlawries, Appeals, Accusations of Thefts done before him, and of all other Things done in the County, that is certain to the Coroner's Office; And also in the Court of Freemen which have Franchises of Infangthef, &c. And in the Presence of the Coroner shall all Appeals of Robbery and Larceny be framed.

The Office of a Coroner.

Now, as to the View of the Body of a Man, it is his Office, that so soon as he shall be certified thereof, to send to the Constable of the Hundred of the Place to summon sufficient and able Men of the Towns adjacent, that at a Day certain they be before him at such a Place; all which done, the Body is to be viewed, and if it be buried, it is to be taken up, and he is to record the Names of those who buried him: And if it hath been decreased or endamaged by ill keeping, or lain so long that it cannot be judged how it came by its Death, the same must also be recorded, that this Negligence may be punished at the coming of the Justices of Assize into the Circuit; for the Town where the Neglect or ill Management was, shall be grievously amerced upon the Sight of the Coroner's Rolls.

2 R. 2. 2.

4 H. 7. 18.

He ought to do his Office in Person, and to see the dead Body when he maketh Inquisition, otherwise the Inquiry is invalid: For if he will inquire of any dead Person without View, this is without Authority and void.

If the Coroner be remiss and negligent in coming to execute his Office, after he is sent unto, he shall be amerced.

*Mirror. c. 1.
sect. 13.*

But to proceed, if the Coroner, with the Advice of the People present, be able to judge of the Death, then are they to present the Manner of his Killing, whether he died of another's Felony or his own, or by Mischance; and if of Blows, whether of a Staff or a Stone, or any other Weapon; and he is to record in his Rolls the Names of those who were summoned and appeared not, that the same Offences of Disobedience remain not unpunished, whereby the Coroner could not at that Time proceed for Want of Jurors. Therefore we will inquire what Persons may be of the Inquest.

*What Persons are to be of the Coroner's Inquest, and
how to be qualified.*

*Cro. 1. part,
f. 75. Sir
William
Wickipole's
Case.*

THE Inquisition before Coroners is to be of Persons within the four next adjacent Villages, as appeareth by the Statute of 1 Ed. 1. *De Officio Coronatoris*, and *Crompt. fol. 113.* In these Inquests lie no Exceptions or Challenges to the Persons of the Jurors; but he ought to make his Panels of the discreetest and ablest, and best of them.

*In case of
Death an
Inquisition
super vis.
corp. per
Jacr. prob.
Eringdon.*

The Names of the Jurors ought to be certified, for peradventure they be not *probi & legales homines*, but Villains and Outlaws. 15 H 4. 41. For note, That an Indictment before Coroners which found, that the Earl of B. was *Felo de se*, was

& leg. hom. where not good. *Popl. Rep. fol. 202. Harrison* against

quash'd;

quashed, because it did not appear that it was *per Sacramentum proborum & legalium hominum*. Poph. Rep. fol. 202. Harrison against Erington.

And likewise in Hillary Term, 2 Car. Poph. Rep. fol. 209, Poph. Rep. 210. a great Multitude of *Welshmen* were indicted for the Death of a Man by an Inquisition taken before the Coroner in the County of *Montgomery* in *Wales*, and Exceptions were taken to the Inquisition: As first, that the Coroner cannot take any Inquisition, unless it be *super visum corporis*; and to this was cited *Britton* 6 R. 2. *Coron.* 107. 21 E. 4. 70. 2 R. 3. 1. This is also the Reason, that if a Man drown himself, and cannot be found, the Coroner cannot inquire of the Death of this Man: But for the King to have a Forfeiture of his Goods, an Inquisition ought to be taken before the Justices of the Peace. The second Exception was, That the Inquisition was *per sacramentum proborum & legalium hominum* Com. pred. whereas by the Statute of 4 E. 1. this Inquest ought to be by Men of the four next Towns adjoining; and this ought to appear in the Indictment also. *Hill.* 10. *Jas. Rot.* 3. *Co. lib. Inr.* fol. 354. 254. and *Pasch.* 3. Car. This Indictment was quash'd for these Exceptions. *Stat.* 4.E.1. *Co. lib. Inr.* fol. 354.

The Impanelling of the Inquest, and the View of the Body, and the giving of the Verdict, is commonly in the Street in an open Place, and in *corona populi*; but this Name rather cometh because the Death of every Subject by Violence is accounted to touch the Crown of the Prince, and to be Detriment unto it. The Prince accounting that his Strength, Power and Crown doth consist in the Force of his People, and the Maintenance of them in Security and Tranquillity. *Smith's Common-wealth of England, cap. 24.*

The Method of keeping the Coroner's Court.

THE Coroner's Court is a Court of Record, and holden after this Manner:

When a Coroner cometh to view a Party that hath hanged, killed or drowned himself, or that hath come to his Death by any other Accident, he must make out his Warrant to impanel a Jury, to the Balliff in whose Liberty the Party lieth dead, to appear before him at such a Day and Place as he shall nominate and appoint. The Form of the Warrant is thus:

To the Bailiff, and also to the Constable and Tithingmen of the Hundred of R. in this Behalf jointly and severally, greeting,

Yorkshire.

By Virtue of mine Office, these are in the Name of our Sovereign Lord the King, to will and require you, immediately upon the Receipt and Sight hereof, to summon and warn twenty-four able and sufficient Men to be and appear before me at *Shipton* the 21st Day of November next ensuing the Date hereof, at the common Tolbooth of the said Town, then and there to do and execute such Things as on his Majesty's Behalf shall be given them in Charge; whereof fail you not, as you, and every of you, will answer the contrary at your Perils. Dated under my Hand and Seal the 12th Day of September, in the Year of our Lord, 1638.

By me G. W. one of the Coroners of the County aforesaid.

If it be a City or Corporation, then the Form of the Warrant or Precept is thus:

City of
York.

To the Sheriffs of the City of York, and to the Sergeants at Mace, attending the said Sheriffs.

These are to will and require you, and in the Name of our Sovereign Lord the King, &c. straitly to charge and command you, that you cause to come before me one of the Coroners of the City of York, and County of the same City, at the House of T. P. in *Fisgate* within the said City, between the Hours of one and two of the Clock in the Afternoon of this present first Day of May, twenty-four good and lawful Men of the said City, then and there to enquire upon the View of the Body of A. B. there lying dead, how and in what Manner he came to his Death; fail not herein, as you will answer the contrary. Given under my Hand and Seal, the 21st. 1638.

By me J. C. &c.

When you come to the Place appointed call the Bailiff, Constable, &c. to make a Return of their Warrant.

Then command one to make three Proclamations, calling the Jury after this Manner:

You

You good Men that are returned to appear here this present Time to inquire for our Sovereign Lord the King, &c. answer to your Names as you shall be called, every Man at the first Call, upon Pain and Peril that shall fall thereon.

And such of the Jury as fail to appear shall be fined forty Shillings.

The Jury appearing swear fourteen or fifteen of them, and give the Foreman his Oath *super visum corporis*, thus :

You shall diligently enquire and true Presentment make on the Behalf of our Sovereign Lord the King, &c. how and in what Manner *A. B.* here lying dead, came to his Death, and you shall deliver up to me (his Majesty's Coroner) a true Verdikt thereof according to your Evidence: So help you God.

The Oath of the Foreman of the Jury:

Or thus :

You shall diligently inquire, and true Presentment make of such Things as shall be given you in Charge according to your Evidence: So help you God, &c.

Then swear the rest by four at once, thus :

Such Oath as *L. M.* the Foreman of this Inquest for his Part hath taken, you and every one of you shall well and truly observe and keep on your Parts: So help you God, &c.

The Oath of the rest of the Jury.

If the Evidence be not ready, you may adjourn until another Day and Place to receive their Evidence, binding the Jury by Recognizance in twenty Pounds a-piece for their Appearance.

Adjournment.

Then send out your Warrants to the Witnesses, commanding them to come to be examined before you, and to deliver their Knowledge touching the Matter in Question, taking their Examinations in Writing under their Hands.

Proceedings thereon.

If it be about the Trial of a Man's Life, then must the Witnesses be all bound over in twenty Pounds a-piece at the least, personally to appear at the next Assizes then ensuing, to deliver their Knowledge therein.

The Recognizance must be made in this Manner, *viz.*

The two and twentieth Day of May, in the Year, &c. *A. B.* of &c. in the aforesaid County, acknowledges himself to owe *York. ff.* and to be indebted, &c. under Condition, &c.

That if the said *A. B.* do personally appear before the Justices of Assize and Gaol-Delivery, at the next Assizes to be holden at the Castle of *Y.* for the said County, and then and there deliver, and set forth his Knowledge touching the Death of *E. F.* and do not depart thence without Licence of the said Court, That then this present Recognizance to be

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void and of none Effect, or else the same to stand, remain, and continue in Force, Strength, Power and Vertue.

Taken and acknowledged the two and twentieth Day of May in the Year 1658, aforesaid, before me R. W. Gent. one of the Coroners of the County aforesaid.

R. W.

Then command three Proclamations to be made thus:

If any Man can give Evidence on the Behalf of his Majesty, how and in what Manner A. B. here lying dead came to his Death, draw near and you shall be heard.

Evidence appearing, give him or them this Oath:

The Oath
of the
Evidence.

All such Evidence as you shall give to this Inquest, concerning the Death of A. B. here lying dead, shall be the Truth, the whole Truth, and nothing but the Truth: So help you God, &c.

The Jury being all sworn, command them to stand together and hear their Charge, the which I shall give you in brief.

Gentlemen,

Coroner's
Charge to
the Jury.

1. You that are sworn, you by your Oaths are to enquire of the Death of this Man, whether he died of Felony or by Mischance; and if of Felony, whether of his own or of another's; and if by Mischance, whether by the Act of God Man; and if of Famine, whether of Poverty or Common Pestilence; and from whence he came, and who he was; and if he died of another's Felony, who were Principals, and who Accessaries, and if Hue and Cry were duly made or not, and whether the Men fled according to Law or not, and who threatned him of his Life or Members, and who were Sureties of the Peace: Or whether he died of long Imprisonment or of Pain, and by whom he was further from Life, and nearer to his Death; and so of all prevailing Circumstances that can come by Presumptions.

2. And in case he died by Hurt or Fall, or other Chance by the Act of God; so that he had no Power to speak before his Death; then you shall inquire the Names of the Finders, and of his next Neighbours, and who were his Parents, and if he were killed there, or elsewhere; and if elsewhere, by whom, and how he was thence brought; and the Value and Kind of the Deodand, and to whose Hand it came; for whatsoever is the Cause of his Death is Deodand, as Horse, Cart, Millstone; also Vessels are sometime Deodands, but not in the Sea; according to the Maxim, *Omnia quæ movent ad mortem sunt Deodanda*,

What are
Deodands,
and what
are not.

danda ; but the Sums upon the Horse, the Goods lying in Ships, Mills, Carts and Houses are not accounted for Deodands.

3. And in case of another's Felony, then you are to enquire who are the Felons, in what Hundred, Pledge, Dosein, Ward or Mainprize they were, and from whence they came, and where they returned.

4. And if he was killed by false Judgment, then you are to enquire who were the Judges, who the Officers to form the Judgment, and who Accessaries; and if false Witnesses, who they were, and the Jurors.

5. And if he died of his own Felony, then that you enquire the Manner, and the Value of his Goods, and the Name of his Parents and the Finders, and of the Neighbours, and the Value of the Waste.

Note, That you are also to enquire of the Accessaries, and they are eight in Number, *viz.*

1. Those who command.
2. Those who conceal.
3. Those who allow and consent.
4. Those who see and could prevent it.
5. Those who help and are in the Force.
6. Those who are Partners in the Gain.
7. Those who knew thereof, and did not interrupt or hinder it by forbidding.
8. Those who knowingly receive such Offenders.

All which you are to enquire of. And you must know, that if one Man wilfully kill another, or if a Man kill or drown himself, the first doth forfeit by that Fact both his Lands and his Goods, and the other forfeits Goods and Chattels, and no Lands. And if any Homicide happen to be wilful Murder, which Offence cannot be too severely punished, therefore by the Law the Offender herein ought to lose both Life, Lands and Goods. And if it be found Manslaughter, if the Offender can read, then he may in favour of his Life, by the King's Mercy, have the Benefit of his Clergy, and so save his Life, but he shall forfeit both his Lands and Goods. The Goods must be found, appraised and valued, of such Offenders, and left in the Town or Village where such Offender dwelleth, by them safely to be kept, until the Offender be acquitted or convicted by due Course of Law; the *interim*, the Offender must be maintained with his Goods, so as he may be kept alive to answer his Fact, and what shall remain when he is convicted, those to whom such Goods do belong by the Law must have them, and not before, and thereof discharge the Town or Village which had the Custody of such Goods. And as for the Offender's Free Land, if he

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have any, immediately after Conviction, his Majesty must have *annum, diem & vastum* therein; and after, the Lord of whom it is holden, shall have it as an *Escheat*.

Thus having in brief declared these Things incident to my Office, and to you to enquire of, I will conclude. Therefore stand together, and hear your Evidence.

2. His Ministerial Power.

14 H. 7. 31.
4 H. 7. 3.
Pl. Com.

WE now come to his Ministerial Power, wherein he hath Authority as a Sheriff, &c. that is, when there is just Exception taken to the Sheriff, Judicial Process shall be awarded to the Coroner for the Execution of the King's Writs, in which Cases he is *locum tenens vicecomitis*; and in some special Cases the King's Original Writ shall be immediately directed unto him.

When the Sheriff is Plaintiff in an Action of Waste, the Estrepement shall go to the Coroners. He may take *posse Comitatus*.

Estrepement Judicial was awarded out of the Court to the Coroners of the County of *Westmorland*, in an Action of Waste, brought by the Earl of *Cumberland* against the Countess Dowager, because the Earl was Sheriff of the same Shire, by which Writ the Coroners were commanded to suffer no Waste to be done in the Lands, &c. And it was then said, that the Coroner may provide against Waste, by taking *Posse Comitatus*. *Hob. fol. 85. Cumberland's Case.*

Of the Coroner's Fees.

THE Statute of 1 H. 8. c. 7. prohibiteth a Coroner from taking any Thing for doing his Office, upon Pain for every Default forty Shillings; the like Penalty where he giveth not his Attendance when he is required to make Inquisition upon the Death of any dead Corps, &c.

Fitz. tit. Coron. fol. 321. & 371.

Fitz. tit. Coron. fol. 321, & 371. A Coroner hath a Fee appertains to his Office, viz. of every *Vifne* one Penny, when they appear before the Justices of Assize, which Fee he receives not to do his Office, but as a Right due to him, though he execute no Part of his Office.

3 H. 7.

By 5 H. 7. he is to have (upon an Indictment found of Murder) thirteen Shillings and four Pence of the Goods of the Murderer, and if he hath nothing, then of the *Amerciament* of the Township for the Escape, &c. *Mirror, cap. 1. Office of the Coron. Fleta, lib. 1. cap. 18. Staundf. Pleas of the Crown, fol. 48, 49, 50.*

Of Appeals.

Appeal hath its Origine or Etymology of the French Word *Appeller*, signifying to accuse or impeach; it is an Accusation; or of *Appeller* to call, because *Appellans vocat reum in iudicium*, he calleth the Defendant into Judgment. *Co. super Litt. 2. lib. 2. cap. 11. Sect. 189. & lib. 3. cap. 8. Sect. 500.*

Appeals are triplicate, viz.

1. Of Wrong to his Ancestor, whose Heir Male he is, and that is only of Death.
2. Of Wrong to the Husband, and is by the Wife only of the Death of her Husband, to be prosecuted whilst she is a Widow; for if a Woman who hath Title of an Appeal of the Death of her Husband, takes another Husband; he and the Wife shall not have an Appeal; for the Woman ought to have it sole: For the Cause of an Appeal is, that she is indigent of her Husband; and the Reason is, because the Wife wanting a Husband, is not so well able to live, and therefore when she hath another Husband the Appeal is determined: *For cessante causa cessat effectus*, the Cause ceasing, the Effect ceaseth. (*Br. Appeal 109.*) As where a Woman hath a Quarantine, and she marries within the forty Days, she loses her Quarantine. *1 Mar. 1. Br. Appeal, 109. Dower 101.*
3. Of Wrongs done to the Appellants themselves, as Robbery, Rape and Maihem.

There shall none of the Blood make Appeal, but the next Heir of the Blood, that should have the Heritage by Law after the Death of him that was slain.

If a Man be slain having a Wife, his Wife shall be admitted to make Appeal within a Year and Day; if she begin the Appeal but two Days before the Year be past, it is as good as if it had been at the beginning of the Year.

If the Wife begin not her Appeal within a Year and a Day after the Death of her Husband, she shall never afterwards be received to make an Appeal.

The Heir of a Man killed shall have Appeal as well of Homicide of his Ancestors, as of Murder. *2 E. 6. Br. Appeal 121.*

If he that is attainted of Treason or Felony be slain by one that hath no Authority, in this Case his eldest Son can have no Appeal; for he must bring his Appeal as Heir; which being *ex provisione domini*, he loseth it by the Attainder of his Father, but his Wife shall have an Appeal; because she is to have an Appeal as Wife, which she remaineth, notwithstanding the Attainder, because *Maris & femina conjunctio est de jure nature*, and therefore is indissoluble.

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An Appeal of Maihem is in a Manner but a Trespass, so^r he shall recover but Damages, yet the Indictment shall say, *quod felonice maihemavit.*

The Coroner receiveth at the County Appeals of Robbery and Appeals of Death, whether it be for the Wife of him that is dead, or for his Heir ; which Appeal may be made at the County within a Year and a Day after the Fact committed : That is, within a Year and a Day after the Stroke, and not the Death. *Saundf. Co. 4 Rep. Cases of Appeals and Indict.*

If a Man make Appeal at the County, it behoves him to be at the County in proper Person to make his Appeal, and he must find Sureties at the same County to pursue his Appeal, and he shall have a Day to the next County to pursue his Appeal; and if the Plaintiff fail at the County of his Appearance in proper Person, the Appeal is abated.

If a Man make an Appeal, and be nonsuit in his Appeal, he shall never be received to make his Appeal afterwards.

Note.

Note, That an Appeal of Death may be commenced before the Coroner, and Process awarded to the Exigent ; but the Plea shall not be determined before him. *Br. Appeal 62. the End. Coron. 82.*

The Sheriff shall have Counter-Rolls of Appeals, &c.

Wilm. 1. cap. 10. The Sheriff shall have Counter-Rolls with the Coroners, as well of their Appeals, as of Inquests of Attachments, and of other Things which to that Office appertain.

An Appeal of Murder by the Wife of him that was slain.

A B. nuper uxor C. D. in propria persona sua instanter appellat E. F. nuper de S. in Comitatu Ebor. Gen. in cu^m dia H. R. Vic. Comitatus præd. & ad Barram duct. in propria persona sua de morte præd. C. B. nuper viri sui de eo quod idem C. B. nuper vir ejus 10 die Maii, anno, &c. fuit in pace Dei & dict. Dom. Regis operans & laborans in lapidibus caleariis, (anglice Lime-stones) effodiend. in terris T. W. Armig. in quodam loco ibidem vocat. (a Stone-delph vel Pit) apud S. in Comitatu prædicto, ubi ven. prædictus E. F. ut Felo dict. Domini Regis, & de insultu & malicia præcogitata in eundem C. B. 10 die Maii, anno, &c. supradict. circa horam septimam ante meridiem ejusdem diei, vi & armis, viz. baculis, cultellis, gladiis, &c. apud S. prædictam, in præd. loco felonice insult. fec. & eundem C. B. adtunc & ibidem felonice & voluntarie interfecit & murtheravit, & eundem C. B. sic interfecit. ab inde incontinen^{ter} asportavit in quandam angulam ejusdem le Stone-Delph vel Pit, & cum lapidibus calcariis adtunc & ibidem jacen. in dicto le Delph vel Pit abscondidit in parochia de S. in Comitatu præd. contra pacem dict. Domini Regis Coron. & dignitatem suas : Et quam cito idem felo feloniam & murther præd. fecisset fugit, & præd. A. B. ipsum

ipsum recenter insens. fuit de villa in villam usque quatuor vill. propinquiores & ulterius quousque, &c. Et si prad. E. T. feloniam & murdrum prad. in forma prad. fact. dedicere velit, tunc pradicti. A. B. parat. est Felon. & Murdr. prad. versus eum probare prout Cur. hic, &c. Et inven. pleg. de prosequend. appell. illud, viz. J. D. & R. R. &c.

If the Appeal be by the Heir of the Person murdered, then thus :

A B. proxim. de sanguine & filius & heres C. D. in propria persona sua instanter appellat E. F. nuper de S. in Comitatu Eboracensi Gen. & G. H. nuper de R. in Comitatu pradicto Armiger. in custodia H. B. Vic. Com. pradicti, & ad Barram ducti. in propria persona sua de morte pradicti C. D. nuper patris ejus de eo quod ubi idem C. D. die, &c. anno, &c.

An Appeal of Maihem.

A B. in propria persona sua appellat R. L. de D. in Comitatu Ebor. Armig. de eo quod ubi idem A. B. fuit in pace Dei & Domini Regis nunc apud C. in Comitatu pradicto die & anno, &c. idem R. L. ven. & in eundem A. B. ex malitia sua praecogitat. insult. fecit & armat. in tali modo manum dextram ipsius A. B. amputav. (vel tali baculo super caput ejus percussit, unde penetravit caput ejus) vel lapide tres incisorum expungit, per quod ipsum felonice maibemavit, & quam cito, &c. Et si, &c. idem A. B. hoc parat. est versus eum probare, prout Cur. &c.

Of Wounding, thus :

A B. in propria persona sua, &c. de eo quod ubi prad. C. D. &c. eundem A. B. tali celo ipsum percussit & ipsum in tali parte corporis sui vulneravit, quod quidem vulnus continet tantum in longitudine, tantum latitudine, & tantum profunditate; Et hanc plagam felonice dedit, & quam cito, &c. Et si, &c. idem A. B. hoc paratus est versus eum probare prout Cur. &c.

An Inquisition of Murder.

Midd. ff. **I**nquisitio indentat. capt. apud Parochiam de S. in Comitatu Middlesex xxv die Martii, anno, &c. coram T. E. Gen. un. Coronatorum Comitatus prad. super visum corporis ejusdem W. F. adtunc & ibidem mortui jacen. p. r. sacrum J. W. R. W. H. P. J. A. J. B. L. S. M. L. J. K. S. B. W. H. R. G. & N. S. pro-

proborum & legalium hominum Paroch. præd. & quatuor aliarum Villarum in Comitatu prædicto eidem parochia prox. adjungen. jurat. triat. & omerat. ad inquirend. ex parte dicti Dom. Reg. qualiter & quomodo prædictus W. F. ad mortem suam devenit super sacrum suum dicunt quod prædictus E. L. nuper de Parochia de S. prædicta in Comitatu prædicto Labourer, xix die Marcii Anno, Sec. præd. timorem Dei præ oculis suis non habens, sed instigatione Diabolica motus & seduct. vi & armis, &c. apud Parochiam prædictam in Comitatu prædicto, in & super dicti. W. F. in pace Dei & dicti Domini Regis existent. adtunc & ibidem felonice insult. fecit. Et quod præd. E. L. eundem W. E. adtunc & ibidem in terram dejecit & præcipitavit; Et præfat. E. L. cum manu sinistra & ambobus pedibus ipsius E. L. prædictam W. E. (sic ut præfertur in terram prostrat.) in & super pedem suum cum manibus & pedibus suis felonice percussit, verberavit & calcavit: Et idem W. F. adtunc & ibidem cum manu sinistra & ambobus pedibus ipsius E. L. in & super pedem ejusdem W. F. dedit unam contusionem mortalem, longitudinis sex pollicium, & latitudinis quatuor pollicium, de qua quidem contusione mortal. prædictus W. F. adtunc & ibidem instanter languebat & languidus vixit, a dicto xix die Marcii, anno, Sec. usque xx diem dicti. mensis Martii, tunc prox. sequen. quo die præd. W. F. apud Parochiam præd. in Comitatu præd. ex contusione mortal. præd. obiit; Et sic Juratores præd. super sacrum suum præd. dicunt quod præd. E. L. præd. W. F. felonice interfecit & murtheravit, modo & forma prædictis contra pacem dicti. Domini Regis, Coron. & Dignitat. suas; Et que bona & catalla prædictus E. L. habuit tempore felonie præd. modo & forma prædicta per ipsum fact. & commiss. iidem Jurator. penitus ignorant.

In cujus rei Testimonium tam ego præfat. Coron. quam Jurator. præd. hæc Inquisic. Sigilla nostra alternatim apposuimus, die anno & loco supradicti.

An Inquisition for Manslaughter, where one was starved and perished for Want of Sustenance.

Midd. ff. **I**nquisitio indolent. capt. apud Hampstead in Comitatu Middlesex xx die Decembris anno, &c. coram J. G. Gen. un. Coronator. ejusdem Domini Regis Comitatus præd. super visum corporis W. T. adtunc & ibidem mortui jacent. per sacrum R. H. W. P. T. E. M. W. J. M. N. D. A. P. P. B. R. B. R. C. J. B. E. F. J. W. J. C. J. H. D. C. J. S. & J. M. proborum & legalium hominum de Hampstead præd. & de quatuor al. Vill. in Comitatu præd. Villa de Hampstead præd. proxim. adjungen. qui omerat. & jurat. ad inquirend. qualiter quando & quomodo præd. W. T. ad mortem suam devenit super sacrum suum dicunt quod J. B. de W. in Com. præd. T. & S. uxor. ejus, Deum præ oculis suis non habent. sed instigatione

insigatione Diaboli mot. & seduct. xx die Novembris, annu, &c. Supradict. vi & armis, &c. apud W. præd. in Com. præd. in & super eundem W. T. adtunc appetit. ipsius J. B. in pace Dei & dicti Domini Regis adtunc exister. felonice, voluntarie & ex malitia sua præcogitata insulti. fecer. & quod ipso prædicta S. adtunc scilicet prædicto xx die Novembris, anno præd. & diversis aliis diebus & temporibus, tam antea quam postea apud W. præd. in Com. præd. felonice, voluntarie, & ex malitia sua præcogitata detinuit & detraxit ab eodem W. T. & eidem W. T. non exhibuit & dedit bon. & sufficien. aliment. vict. amict. lecturam, medicin. ac al. necessar. ea intentione præfat. W. T. per indigenc. inde miserabiliter langueret, interiret, & moriretur, de quibus quidem detentione & subtractione aliment. à præfat. W. T. non exhibitione & allocatione eidem W. T. bon. & sufficien. aliment. vict. amict. lecturam, medicin. ac al. necessar. per eundem S. præd. W. T. à prædicto xx die Novembris, anno prædicto usque xv diem Decembris tunc præ. sequen. anno præd. apud W. præd. in Com. præd. miserabiliter, languebat & languescens miserabiliter vivebat super quem quidem xv diem Decembris anno prædicto præd. W. T. pro defectu bon. & sufficien. aliment. vict. amict. lectur. medicin. & al. necessar. apud W. præd. in Com. præd. miserabiliter interiebat & moriebatur: Et quod præd. J. B. simulac cum præd. S. uxor. ejus tempore felon. & murdr. præd. per præd. S. modo & forma præd. facti. & commissi. felonice & voluntar. & ex malitia sua præcogitata, fuit præsens, assistens, abbetans, procur. confort. & maquerit. præfat. S. præd. W. T. modo & forma præd. interficere & morderare: Et sic Jurator. præd. dicunt super sac. m. egrum præd. quod ipse præd. J. B. & S. uxor ejus præd. W. T. modo & forma præd. felonice, voluntarie, & ex malitia sua præcogitata interfecer. & morderaver. contra pacem dicti Domini Regis Coron. & Dignitas. suas, &c. Et sic prædictus W. T. ad mortem suam devenit & non aliter, neque ullo al. modo præterquam sicut supradicitur. Sed quæ bona & catalla, terras sive tenementa, præfat. J. B. & S. uxor ejus tempor. felon. & murdr. præd. per præd. J. B. & S. uxor. ejus modo & forma præd. facti. & commissi. seu ullo alio tempore postea (usque caption. istius Inquisition.) habuer. iidem Juratores penitus ignorant. In cujus rei testimonium, &c.

Inquisition where one is slain by Misfortune by a Cart loaden with Hay.

Midd. ff. **I**nquisitio indenti. capt. apud, &c. Qui dicunt super sac. um suum, quod præd. A. B. 10 die Maii. anno, &c. præd. apud S. præd. in Com. præd. eundo cum caruca sua à S. præd. usque L. in dict. Com. per viam inter S. & L. præd. scil. apud, &c. præd. in Com. præd. caruca sua præd. seno onerata, anglice (his said Cart loaded with Hay) cecidit super corpus præd. A. B. & ita quassavit & fregit corpus suum quod de quassatione & fracture ejusdem

ejusdem præd. A. B. adtunc & ibidem instanter obiit. Et sic Juratores præd. super sac' m. suum præd. dicunt quod præd. A. B. modo & forma præd. per infortunium ad mortem suam devenit. Et aliter Jurat. præd. super sac' m. suum præd. dic. quod adtunc & ibidem quatuor equi cum caruca præd. & onere feni continens pondere per estimationem quadraginta pondera, anglie (Stone-weight) moverunt ad mortem præd. A. B. & quod præd. quatuor equi sunt pretii octo librarum & decem solid. Et quod præd. caruca est valoris 20 s. Et quod præd. Caruca remanet in Custodia C. D. de S. præd. scilicet nuper ux. præd. A. B. Et quod præd. 10 pond. feni. anglie (the aforesaid 10 Stone of Hay) sunt valoris 14 s. & octo denar. & remanent in custodia D. F. de S. præd. gen. In cujus rei testimonium, tam Coron. quam Juratores, &c.

Another, where one by Misfortune is slain by the Fall of a Scaffold.

Midd. ff. **I**nquisitio indentas. capt. apud, &c. Qui dicunt super sac' m. eorum præd. P. H. xxv die Augusti, anno, &c. præd. apud K. in Com. præd. quoddam tabulatum de quodam ligno voc. (Deales) & sudibus abiegnis, anglie (Firrpoles) fact. ad domum J. B. situat. & existen. apud K. præd. erexit ad domum præd. imbricand. Et E. W. M. C. filiam W. G. infantem in brachiis suis habent. & ambuland. in via publica per eandem domum & præd. P. H. adtunc & ibidem super idem tabulatum sol. laborand. Et præd. tabulat. putrido maeremio fac. un. sudum abiegnarum, anglie (One of the Firrpoles) tabulat. præd. supportans, fregit, ita quod tabulat. præd. super caput ejusdem M. C. cecidit, & cavariam capitis ipsius M. C. aliquant. supra autem sinistram ipsius M. C. adtunc & ibidem capitaliter contusi & fregit longitudinis duor. pollicium, & latitudinis unius pollicis: de qua quidem mortali contusione & fractione præd. M. C. instant. linguebat & languide vixit a præd. xxv Augusti, anno præd. usque xxvii diem ejusdem mensis Augusti, super quem quidem xxvii diem Augusti, anno præd. præfat. M. C. apud L. præd. in Com. præd. de contusione & fractione mortali præd. morlebasur. Et sic Juratores præd. super sacramentum eorum præd. dicunt quod præd. H. P. præd. M. C. per infortunium occidit & interfecit & contra voluntatem ejus, modo & forma præd. & qua bona & catalla præd. P. H. tempore homicid. per infortunium habuit, modo & forma præd. per ips. commiss. & perpetrat. contra voluntatem ejus, Juratoribus penitus insognit. existit. In cujus rei testimonium, &c.

An Inquisition where one drowns himself.

Midd. ff. **I**nquisitio indentat. capt. &c. qui dicunt super sacramentum suum, quod præd. A. B. 2 die Maii, anno, &c. præd. circa horam oct. ante meridiem ejusdem diei, Deum præ oculis suis non habens, sed instigatione Diabolica seduct. & mot. ex malitia sua præcogitata, apud M. præd. in Com. præd. adtunc & ibidem sol. existen. in communi rivulo ibidem seipsum voluntarie & felonice submersit. Et sic Jurat. præd. super sacramentum suum præd. die. quod præd. A. B. modo & forma præd. adtunc & ibidem voluntarie & felonice, ut felo de seip. occidit & murtheravit contra pacem. &c. In cujus rei testimonium tam coron. præd. quam dicti. Jurat. &c.

If one hang himself, then the Inquisition thus:

Midd. ff. **I**nquisitio indentat, &c. (the Hour, &c.) Deum præ oculis suis non habens, sed instigatione Diabolica seduct. & mot. apud S. præd. in quodam bosco sive nemore eidem S. adjuv. adtunc & ibidem sol. existen. cum uno fune canabaceo valoris unius Denarii, quem ipse adtunc & ibidem in manibus suis habuit & tenuit, & unum finem inde circa collum suum adtunc & ibidem posuit, & alterum finem inde circa ramum cujusdam arboris Querei ligavit, & seipsum adtunc & ibidem cum fune prædicto voluntarie & felonice suspendit & suffocabat, & sic Juratores præd. super sacramentum suum præd. dicunt, quod ipsa F. adtunc & ibidem seipsam modo & forma præd. ut felo de se felonice voluntarie & ex malitia sua præcogitata interfecit strangulabat & murtheravit.

No Forfeiture of Lands.

Inquisition for Murder by the Husband.

Inquisitio indentat. capt. apud S. in Com. Ebor. (die, &c) coram T. W. generoso uno Coronator. Dom. Regis infra libertatem Decani & Capituli Ecclesie Cathedralis & Metropolit. Sancti Petri Ebor. super visum corporis Annae uxoris W. R. de Strensall in Com. Ebor. ac infra libertatem præd. ibidem mortui jacen. per Sacramentum, &c. proborum & legalium hominum jurat. ad inquirend. qualiter & quomodo præd. Anna ad mortem suam devenit qui super Sacramentum suum dicunt quod W. R. nuper de Strensall præd. in Com. Ebor. præd. Deum præ oculis non habens nec christiana pietatis sive amoris conjugalis considerationem habens, sed diabolice & maliciose machinans & intendens præd. Annam uxorem suam de vita sua felonice & prod. penitus deprivare apud Strensall præd. ac infra libertatem præd. & in Com. Ebor. (die & anno) ea intentione ut nequissima & Diabolica proposita sua efficere potuisset tres ictus, anglice (Blows) cum manu sua super caput præd. Annae dedit & cum ictibus illis cum manu sua adtunc &

& ibidem felonice interfecit prout idem W. R. confessus est. In cuius rei testimonium, &c.

Inquisition upon one falling from his Horse, and the Horse striking.

Inquisitio, &c. qui super Sacramentum suum dicunt quod A. C. (die & anno) apud Dunnington in Com. praed. equitans super quendam spadonem ipsius A. C. idem A. C. a tergo spadonis praed. adiunt & ibidem ad terram casualiter cecidit ac spudo praed. aditunc & ibidem super corpus dicti A. C. cecidit & aditunc & ibidem dedit eidem A. C. unam plagam mortalem de qua quidem plaga mortali praed. A. C. apud D. praed. in Com. praed. languebat & languidus vixit a praed. (die) anno supradicto usque ad decimam diem Februarii, tunc proz. sequen. quo quidem decimo die Februarii anno supradicto praed. A. C. apud D. praed. in Com. praed. de plaga mortali praed. obiit. Et sic Juratores praed. super Sacramentum suum praed. dicunt quod praed. A. C. modo & forma praed. & non aliter ad mortem suam venit. Et Juratores praed. ulterius dicunt quod spado praed. apprehendatur ad centum solidos & remanet in custodia G. H. de D. praed. Yeoman. In cuius rei testimonium tam Coronator praed. quam Juratores praed. buie inquisitioni sigilla sua apposuerunt die anno & loco superius primo mentionat. &c.

Inquisition where one dies in Gaol.

Inquisitio, &c. quod praed. T. G. die captionis huius inquisitionis existen. prisonar. in Gaol. Dom. Regis Castri sui Ebor. in Com. Ebor. aditunc & ibidem ex visitatione Dei obiit & aditunc & ibidem modo & forma praed. ad mortem suam venit & non aliter. In cuius rei, &c.

Inquisition where one falls from his Horse, and is drowned in the Ditch.

Inquisitio, &c. quod H. W. quinto die Marcii, anno, &c. in nocte ejusdem diei equitans super quendam Spadonem apud Sutton in Com. Ebor. prope unam fossam vocat. F. aqua & luto implet. ipse idem H. W. aditunc & ibidem a spadone praed. in fossam praed. casualiter cecidit & in fossa praed. aditunc & ibidem immersus & suffocatus fuit & aditunc & ibidem instanti obiit. Et sic Juratores praed. dicunt quod praed. H. W. ad mortem suam praed. modo & forma praed. apud S. praed. in Com. praed. per infortunium venit, &c.

Inqui-

Inquisitio per infortunium, where two were playing with Swords.

Inquisitio indentat capt. apud Tollerton in Cem. Ebor. coram T. F. uno coronatorum Domini Regis in Com. prad. quinto die M. anno. Sec. super visum corporis ejusdam A. M. nuper de T. prad. in Com. prad. Labourer, ibidem mortui jacen. per Sacramentum W. F. &c. proborum & legatium hominum Com. prad. de quatuor villis villa de T. prad. prox. adiacen. impanellat. jurat. & onerat. ad inquirend. qualis. & quomodo prad. A. B. ad mortem suam venit, Qui dicunt super Sacramentum suum prad. quod prad. A. M. & quidam B. D. existen. milites & vigilantes in nocte apud T. prad. quarto die M. anno supradicto. Et ludentes cum gladiis suis districtis ita accidit quod prad. B. D. eundem A. M. casualit. & contra voluntatem suam vulnerabat super tibiam suam dextram & adtunc & ibidem dedit eidem A. M. unam plagam mortalem (tal. latitudinis) de qua quidem plaga mortali prad. A. M. apud T. prad. in Com. pradicto languet & languidus vixit (a tali die usque talem diem) quo quidem xx die M. anno supradicto prad. A. M. de plaga mortali prad. obiit. Et sic juratores prad. dicunt super Sacramentum suum prad. quod prad. B. D. eundem A. M. apud T. prad. in Com. prad. modo & forma prad. per infortunium & contra voluntatem suam interfecit. Et quod gladius prad. dicti A. M. remanet in custodia A. B. Et quod prad. A. M. modo & forma prad. & non alit. ad mortem suam venit. In cujus rei testimonium, &c.

Inquisition of Murder by bruising, against three, one fled, and had Goods and Land, another had none.

Inquisitio, &c. quod R. B. nuper de D. in Com. prad. Yeoman, C. D. nuper de D. in Com. pradicto, Yeoman, & W. B. nuper de D. in Com. prad. Yeoman, (die & anno) apud R. in Com. Ebor. prad. in & super quendam J. N. in pace Dei & dicti Domini Regis tunc existen. felonice voluntarie & ex malitiis suis prægigat. insult. fecerunt & ipsum J. N. adtunc & ibidem super terram felonice & voluntarie defecerunt. Et quod prad. R. cum manibus & genibus suis ipsum J. N. in & super corpus suum adtunc & ibidem felonice consumdebat, deprimebat & percutiebat, anglie (did crush, bruise and strike.) Et quod prad. W. B. adtunc & ibidem cum manibus & genibus suis ipsum J. N. in & super corpus suum adtunc & ibidem felonice

nice percutiebat contundebat & deprimebat, de quibus quidem contusionibus depressionibus & percutiionibus idem J. N. apud S. pred. in Com. pred. languiebat & languidus vivit, a pred. quarto die Octobris, anno supradicto usque ad octavum diem ejusdem mensis Octobris anno supradicto quo quidem octavo die Octobris anno supradicto pred. J. N. apud S. pred. in Comitatu predicto de contusionibus & depressionibus pred. obiit. Et sic pred. R. B. C. D. & W. B. eundem J. N. apud S. pred. in Com. pred. modo & forma pred. felonie voluntarie & ex malitibus suis preceogitavit interfecer. & mirasaverunt contra pacem di. R. Domini Regis. nunc. & dignitas. suis. Et quod pred. R. B. post feloniam & marit. pred. in forma pred. facti, scilicet eodem viii. die Octobris, anno supradicto apud T. in Com. pred. fugam fecit. Et sic, pred. super sacramentum suum pred. ulterius dicunt quod modo & forma pred. pred. J. N. ad mortem suam venit. & non aliter. Et quod pred. W. B. tempore felonie & marit. pred. in forma pred. facti, habuit separatia bona & caralla in feoda dala hinc inquisitioni annexat. mentionat. ad valentiam 50 libras sterlingis in dominio suo. & de feodo de & in duobus bochariis & in T. in Com. Ebor. annuatim valoris 50 libras. Et quod pred. C. D. tempore felonie & marit. pred. in forma pred. facti, habuit separatia bona & caralla in feodis & in inquisitioni annexat. mentionat. ad valentiam 10 libras. & quod quidam separatia bona & caralla remanent in feodis & in inquisitioni annexat. mentionat. ad valentiam 10 libras. Et quod pred. A. B. constabularius villis de S. pred. quodque pred. R. B. tempore felonie & marit. pred. facti, nulla habuit bona seu catalla nec pred. W. B. & C. D. nulla habuer. aliquis alia seu plura bona aut catalla terrar. aut tenementa in Com. Ebor. aut alibi prout Jur. pred. ad hoc presens aliquo modo constare potest. In cuius rei testimonium, &c.

Inquisition, where one falls against a Wain and is slain.

Inquisitio, &c. quod pred. A. B. (die & anno) apud T. in Com. Ebor. ambulans prope quoddam plaustrum, angliee (a Wain) incubuit seipsum. angliee (did rest himself) super axem plaustrum pred. & ita accidit, quod ipse pred. A. B. ad unum ibidem casuاليا, versus terram cecidit & ad terram. Et ibidem faciem suam percussit super rotam plaustrum, & ad unum ibidem casu & percussione pred. recepit unam plagam mortalem super faciem suam de qua quidem plaga mortali idem A. B. ad unum ibidem instanti obiit. Et sic Juratores, &c.

Inquisition,

Inquisitio, &c. quod præd. E. F. primo die 7. anno, &c. apud Brotherton in Com. præd. equitans super quendam spadonem per & trans quendam aquam ibidem vocat. M. aditum & ibidem casualiter cecidit a spadone præd. in aquam præd. & in eadem aqua aditum & ibidem immersus fuit & instantèr obiit. Et sic Juratores præd. dicunt quod præd. E. F. modo & forma præd. per infortunium & non aliter ad mortem suam devenit prout ad Juratores præd. ad hoc præsens aliquo modo constare potest. Et quod spado præd. ad mortem præfati E. F. movebat & idem spado appreciatur ad septem libras & remanet in custodia W. S. de H. in Com. præd. Labourer. In cuius rei testimonium, &c.

The Sheriff's Court is a court of law, and is held at the Sheriff's Office, in the City of New York. It is a court of law, and is held at the Sheriff's Office, in the City of New York. It is a court of law, and is held at the Sheriff's Office, in the City of New York.

Sheriff's Tourn, AND Court - Leet.

Of the Original or Institution of them.

Time of its
Institution.

Lamb.

E. 4. c. 4.

Derivation
of the
Word.

Britton.

c. 29 & 61.

View of
Frank-
pledge.

Flet. lib. 2.
c. 60.

The Sher-
riff has two
Courts.

KING *Alfred*, in the Year 872, was the first In-
stitutor of this Court which we now treat of,
then called *Sciregnot*, that is to say, the Assem-
bly of the Shire, Sheriff's Tourn, and sometimes
called the Sheriff's Moot. It seems to have
Appellation of Sheriff's Tourn of the *French* Word *Tour*, viz.
ambitus, circuitus, vicissitudo, and is by *Britton* styled *Tour*, *cap.*
16. sub fine capitis; as if he should say, the Sheriff's Course or
Perambulation: For (as *Britton* noteth in his 29th Chapter)
that which before the Sheriff is called the Sheriff's Tourn, is
called in the Court of Franchises and Hundreds, the View of
Frank-pledge: Wherein Inquiry is specially made of such as
be not in *Dozin*, with whom *Fleta* accords. And by *Fleta* it
appeareth, that this Tourn was the Sheriff's Course to keep
his Tourn in every Hundred. *l. 2. c. 52. Habet etiam Rex cur.*
suam in turnis, vic. & vicibus, &c. And in many Books 'tis called
the King's Leet, and the Sheriff's Leet. *Bro. 21 & 23.*

Two Courts were assigned to the Sheriff by the said *Al-*
fred; by which two Courts the whole County was governed,
viz. the County or Shire-Court, for one Man to have Reme-
dy against another, in any Matter arising between them un-
der

der forty Shillings, and the Sheriff's Tourn, unto which every Man within the County above the Age of twelve Years, and under sixty, are compelled to come, that they might not be ignorant of the Things there published (or given in Charge) whereby they are to be governed; and this was called Suit real, by reason of their Allegiance; unto which they were sworn to be true and loyal to the King. And it was learnedly spoken by a Reverend Judge, Justice Flemming, in a Speech of his concerning the Necessity of Sheriffs Tourns and Law-days, who said that it was *Schola insigniendi juvenes*, a School to direct and instruct young Men in the ancient Laws of the Commonwealth, and to prepare them for greater Employment at more great Conventions, at the Assize, Gaol-Delivery, or Sessions of the Peace.

Suit real,
what it is.

Now because the People did undergo great Trouble and Vexation in travelling to the Sheriff's Tourn, Leets or View of Frank-pledge were granted to the Lords of Manors within certain Precincts; yet this Court, in whose Manor soever it is kept, is accounted the King's Court, because the Authority is originally appurtenant to the Crown, and thence derived to inferior Persons. And Dyer saith, That this Court was first derived from the Sheriff's Tourn. And 'tis for this Cause that in most Leets there is at the holding the Leet a certain Sum of Money paid to the Lord of the Leet, which is called by various Names, viz. *Capitagium*, King's Silver, Common Fine, &c.

Leets, how
first granted.

Kitch. f. 6.
Dyer. f. 64.
Ch. 13.
Ter. of Law.
Co. L. 33.

Capita-
gium,
Common
Fine, &c.

This Court is a Court of Record in all Things that appertain to the Tourn or Leet, and the Sheriff of the Tourn, or Steward of the Leet, are therein Judges of Record. For whosoever hath the Leet, hath the same Authority within the Precinct, as the Sheriff hath within the Tourn.

A Court of
Record.

Of the Power and Authority of the Judge of the Court.

THE Steward or Judge hath a double Power and Authority in the Court.

1. Election of Officers.
2. Correction or Punition of Offenders.

In that of Punition, a double Act is to be respected.

1. *Actus Curie*, the Act of the Court.
2. *Actus Patrie*, the Act of the County, or Jury.

The Authority of these two Acts do encounter with two Sorts of Offences or Misdemeanors, being furnished with a double Weapon.

1. Fine.
2. Amerciament.

The one Sort of Offences are } *In Curia.*
The other Sort are } *Extra Curiam.*

Extrinsical
Offences.

1. Now to oppose and subdue those extrinsical Offences, viz. those that are *extra Curiam*; the Jurors that are sworn to present, have peculiar Cognizance, and therefore Authority and Power to present them.

Intrinsical
Offences.

2. The second Weapon to oppose intrinsical Offences, viz. those that are *in Curia*, which Offences are either in omitting or neglecting a Duty enjoined, which ought to be performed by the Jurors, Constables, Bailiffs, &c. or in committing some Contempt and Disorder, in the Face of the Court, by any other Officer or Suitor.

The Steward hath Cognizance, and may punish it by Fine, without Inquiry by the County, as,

Co. 8. 38.

A Suitor
refusing to
make Pre-
sentment,
or refuseth
to be
sworn.

If a Suitor being sworn of a Jury, shall refuse to make a Presentment there; Or if he do depart without giving up his Verdict, or if he refuse to be sworn, the Sheriff or Steward may impose a reasonable Fine upon him.

He may impanel a second Jury to enquire of the Defaults and Condemnments of the first, and to fine them for their Offence.

For Defaults of Reliants to make up the Jury, he may compel a Stranger coming within the View, to be of the Inquest; because 'tis the King's Court, and held for the Service of the Publick. 2 H. 7. 4.

What may be inquired of in this Court.

THE Steward may inquire of several particular Misdemeanours, comprised and enumerated in the Statute of 18 E. 2. even from the highest Treason to the lowest Trespas, though not here punishable. Which so far as they may concern the modern Jurisdiction of our present Times, such as are neither obsolete nor antequate, you shall find in this ensuing Tract, viz. In the Charge of this Court. *Finch. Law* 125. cap. 20. *Siq.* 22. *E.* 4. 22. *Magn. Chart.* cap. 17.

What

What Things are not to be inquired of in this Court.

HE cannot inquire of the Statute of Labourers, or Indictments must be delivered to the Justices of the Peace, according to the Statute of 1 Ed. 4. *Bract. prefat. 16. Fitz. Torn 3. 4. Ed. 4. 8. Ed. 4. 5. 22 E. 4. 22. 9 H. 6. 44. 8 H. 7. 4.*

He cannot commit any Man to Prison for his Contempt, neither can he take Recognizance to bind a Man to good Behaviour, as formerly he might, and as the Sheriff in his Tourn may do. Yet *Co. Inst. 4. fol. 263.* holdeth that he may take a Recognizance for the Peace. *Co. Inst. 4. fol. 263.*

He cannot hold Plea of any Thing appertaining to the Crown, nor touching Freehold, or Lands, nor Debt, Trespasses or otherwise. *Mag. Chart. cap. 17.*

This Court cannot take Indictment of any Felons for the Death of any Man, or in any other Case wherein it hath no Cognizance: If it do, it is *coram non iudice*, and void; neither can it take a Presentment of an Offence done to a Parish or a particular Man. *No Indictments of Felony for Death.*

Such Things as are Trespasses by the Statute or Offences against the Statute, the Sheriff's Office doth not extend to it here, except the Statute doth give in it an express Authority to the Tourn or Leet; for *Nulla est generalis regula sed administratio exceptionem.* *28 E. 3. 95. 21 E. 4. 21. 3 H. 7. f. 1. Br. Leet 19. and 25.*

Nothing but Nuisances and Grievances, Offences or Trespasses, as are popular and common to many Persons: And therefore Trespasses for breaking of Closes, nor Assaults made to a sole and particular Person, is here enquirable, except there be Bloodshed. *Br. Leet 26. Dyer 234. Fitz. Torn 1. 4.*

It was the Occasion of a very learned Contest or Argument, *Pasch. 24. Cons. B. R.* Whether a Court-Leet may enquire of private Assaults and Batteries, if there be no Bloodshed in the Case? *Bacon Justice*, and *Walker* an Apprentice of the Law in the *Inner-Temple*, held that a Court-Leet might enquire of them: But *Justice Rolle* held the contrary, because they are actionable at the Common Law only, by the Party injured, and are not publick Offences against the Publick. *Style's Pract. Reg.*

Upon all Presentments and Indictments taken before the Sheriff in his Tourn, he hath no Power to attach, arrest, or put in Prison, nor to levy, nor take any Fines or Amerciaments of any Person so indicted or presented before them, by Reason or Colour of any Indictment or Presentment taken before them in their Tourns; but the Sheriff shall bring and deliver all such Indictments and Presentments to the Justices of the Peace at the Sessions, that shall be holden for the said County; if not, a Forfeiture for every one not delivered 40 l. *Dyer fol. 155.*

In Leets the Time, the Place where they are holden, and the Persons that are obliged to attend, are considerable.

Fitz. Lect

11.

Stat. 9. H. 3.

6. 33.

1. As to the Time, it must be kept twice a Year according to *Alfred*, *quotannis celeberrimus bis conventus agetur*, one Month after Easter, and one Month after *Michaelmas*: At the Tourn after Easter, no Actions popular are to be enquired after, &c. but only take their Suit, who are Suitors, and to take the View, &c. And at the Tourn after *Michaelmas*, then to enquire of such as are enquirable. *Magna Charta*, cap. 35.

2. Now to the Place where it is holden, and that must be within the Precinct and Liberty, *in loco debito & consueto*; and if it be done otherwise, whatever is acted in it is void, & *coram non iudice*.

32 H. 3.

6. 2. & 10.

Br. Lect 42.

Fitz 2. 106.

6. 161.

3. Thirdly, What Persons are to hold in this Court; there all the Freeholders within the Precinct or Liberty are to come by the Service of their Fees: and all other People above the Age of 12 Years, and under 60; only Ecclesiastical and Religious Men, all Earls, Barons, Tenants in Ancient Demesne, and all Women, are excepted because they are never sworn upon any Inquest.

Jury, what.

1 R. 2. c. 4.

Westm. 2.

6 H. 4. f. 1.

THere must be at the Court twelve (at the least) of the most discreet and sufficient Freeholders, such as are of Repute and Estimation, and have Freehold Lands within the same County of the Value of twenty Shillings at the least, who ought to be impanelled and sworn (by the Sheriff) to enquire of, and present all Things there enquirable and presentable; who ought to take all Indictments by their Oaths, and must deliver in their Rolls and Inquisitions indented and sealed between the Sheriff (or Steward) and the Jurors.

Abuser.

It is said by *Kitchin*, That Court-Leets are to be forfeited in a *Quo Warranto*, which are kept by ignorant Stewards. Some make a Doubt of it in Offices which concern the mere and only private Profit of the Lord, without Damage to the Publick; the Ignorance of a Steward can be no Cause of Forfeiture; but in Offices concerning the Administration of Justice, *pro bono publico*, as a Leet, there is no Doubt but the Franchise may be forfeited.

Compt. Jur.

fol. 145.

The Steward of the Liberty of the Abbot of Crowland, by Colour of his Liberties of Infangthesf adjudged a Man to Death, and for this the Liberty was seized in the King's Hands, *Et nulla pena senescallo*, for *Quicquid iusticia fecerit de recordo ignoranter & pro defectu scientie, non erit pro eo puniatur*, *2 R. 3. fol. 10.*

A Lord of a Leet was fined forty Shillings, for that his Steward took an Indictment *de morte hominis*, in this Leet, which did not belong unto it, and so incroached upon the King. And also took an Indictment of a Robbery done out of his Franchise in another County. *Brook in finibus per Contempt* cites 41 *Ass.* p. 30. If the Lord do hold his Leet at any Time after the Month from *Easter* and *Michaelmas*, it is void by the Statute of 31 *E. 3.* 17. and all Presentments void, and the Lord shall lose his Profits. *Bro. Leet* 17 & 21.

Affize of Bread and Beer, and Pillory and Tumbrel, are appendant to the View of Frankpledge, where a Man had them by a Grant from the King; if he doth not keep Pillory and Tumbrel, he loseth his Franchise. *Bro. Quo War.* 8.

The Abbot of *St. Albans* having the Grant of a Gaol, detained the Prisoners, for that he would not be at the Charge to sue out a Commission for their Delivery; the King seized the Franchise into his Hands. 8 *H. 4.* 18.

Nonuser.

Refuser.

How Amerciaments are forfeited, and what shall be Causes to amerce, &c.

A Merciamment in *Latin* is called *Misericordia*, which signifieth Moderation and Mercy, because it ought to be assessed mercifully, and ought to be moderated by Assentment of his Equals (otherwise a Writ *de moderata misericordia* lieth) which Writ and the Law in that Case is grounded upon the Grand Charter, *cap. 14.* *Quod nullus liber homo amercietur nisi secundum quantitatem delicti*: Or because the Party offending putteth himself on the Mercy of his Majesty. And the Difference between a Fine and an Amerciament is, that a Fine is assessed by the Court, but Amerciament by the Country: For Amerciaments are to be imposed *per juramentum legalium hominum de vicineto*.

Amerciament, whence derived, and how it differs from a Fine.

Co. part 8.

Glanvil in this Book saith, *Est autem misericordia Domini Regis qua quis per juramentum legalium hominum de vicineto eatenus amercietur.* And *Fleta*, *lib. 1. cap. 48.* saith, *Quod liber homo non amercietur nisi per Sacramentum parium suorum.* And with these agreeth *Bracton*, *lib. 3. cap. 1. Fitz. N. B. fol. 72.* And if the Steward set an Amerciament upon a Man on his own Head, it is void: By which Authority it plainly appeareth, that Amerciaments are to be imposed by a Jury, or by the Oaths of good and lawful Men; and therefore I have much admired, when sometimes I have seen Stewards assume upon themselves to set down Amerciaments without the Assistance of the Jury, which Act was directly opposite to the great Charter of *England*, and contrary to the said Authorities of Law.

But

But to demonstrate the Cause of Amerciament, viz. the not appearing at a Leet is a good Cause to amerce a Resiant? and the Lord who distrains for the Amerciament needs not to shew for what he distraineth, because the Tenant hath tendred something for Amends, although the Tenant doth not know the Cause. 45 E. 3. 9. *Avowry* 80. v. 11 H. 4. 89. 12 H. 7. 15.

If a Man be amerced for a Thing done in a Town wherein he dwelleth, he may be distrained for it in any Place within the Hundred or Leet. 11 H. 4. 88.

A Sutor at a Leet may be amerced for not prosecuting Things presentable, being sworn with others, and a general *Avowry*; but he may say, that there was nothing to be presented. 11 E. 3. 9. *Avowry* 155. 10 H. 6. 7. *Co. Lib. Entries* Debt 139. *Co. Part 8. Grisley's Case.*

A. B. was amerced in a Court-Leet for receiving and keeping one in his House, who was not sworn to the King: In in which Case it was holden, that no Goods should be distrained for this Amerciament, but only the proper Goods of the Party amerced, although the Goods of others were levant and couchant on the Ground. 41 E. 3. fol. 26. *Br. Leet* 4. And in 47 E. 3. fol. 11. the Prior of Tindal's Case, where the Prior was amerced, and another Man's Goods were taken and distrained on the Grounds of the Prior for the said Amerciament, and the Distress was not well taken; for a Fine for Amerciament are collateral Duties, and attend upon the Person, and do not charge the Soil.

A Resiant was amerced for not cleansing of a Ditch, and Pain levied upon him, that he cleansed it after, and a Distress taken for not doing of it, &c. 29 E. 3. 36. 41 E. 3. 26.

Reliants and Tenants may be amerced in the Leet for refusing to swear. 38 E. 3. 18. *Conusance* 23.

The Lord of a Leet shall not prescribe to amerce the petty Jury for their false Verdict, the same being found by the grand Jury, for it is no good Custom; but they may be amerced for concealing of any Thing which is presentable there, and this is by Custom. M. 9. H. 6. 42. *Custom.*

An Amerciament in a Leet may be well levied by an Action of Debt. 12 H. 2. *Lev* 43. 10 H. 6. 7.

One was amerced for brewing Ale, and selling it contrary to the Assize within the Hundred; and it was holden, that although he was resiant within another Leet, yet the Amerciament is good where it is made; so it is where one sells Bread and Ale in a Market which is in another Leet, than where it was brewed, &c. *Ass* 12 E. 3. *Avowry* 105.

W. brought an Action of Trespass against H. the Defendant justified, that the Plaintiff was a common Baker dwelling in T. in the County of N. and that it was presented in a Leet, in that he had sold Bread against the Assize in *locis vicinis*; whereupon

43 E. 3. 9.
Avowry 80.
v. 11. H. 4.
89. 12 H.
7. 15.

21 H. 4. 88.
11 E. 3. 9.
Avowry 155.
10 H. 6. 7.
Co. Rep. 8.
Grisley's
Case.

29 E. 3. 36.

41 E. 3. 26.

9 H. 6. 42.
Custom.
Ass 13.

E. 3. *Avowry*
77. 105.

Passib. 14.
Jac. Rot.
15. 1.

upon he was amerced, and by Amerciament affeered to 10 s. and that by a Precept out of the Court he did distrain the Plaintiff: And the Court gave Judgment for the Plaintiff, because it did not appear, that the Offence was committed within the Jurisdiction of the Leet, which should have been specially pleaded, but perhaps the Presentment in the Leet is good, without special Mention in the Presentment that it was done in the Jurisdiction, if the Truth were so: And note, that the Presentment was not so full and perfect. And it was noted by *Hobart* that the Plea was absurd; for it was said, that he was amerced, without saying (what) and that the Amerciament was affeered to 10 s. for which he distrained. Now the Jury must amerce to a certain Sum which may be mitigated and affeered by others; and thereof these Offices cannot be confounded. *Hob. Rep. fol. 119. Wilton and Harding.*

If my Horse be in the keeping of another Man, he may be distrained; if I be amerced in the Leet for stopping the Highway, &c. 47 E. 3. 12. But if an Innholder be amerced, the Horse of a Stranger cannot be amerced 10 H. 7. f. 21. 47 E. 3. 12.

By 3 H. 7. f. 4. A Distress taken for an Amerciament in a Leet or Law-day, may be sold as well in the Case where the Subject hath by Charter or Prescription the Profits of the said Courts, as where the King himself hath them; and all the Reason which that Book yieldeth for it is, because they be the King's Courts: But a Distress taken for an Amerciament in a Court-Baron cannot be sold; and in 22 Aff. plac. 72. it is said, That if one recover a Debt in a Court-Baron, the Goods of the Debtor could not be sold for it: Yet I have seen always in Practice, that for Debts and Damages recovered in the County Courts, the Goods of the Debtors have, and be usually sold for them by *Levati facias*, which (I believe) is used *per totam Angliam*: And a Sale in such a Case in Court-Baron is good; and with this agreeth the Book of 7 H. 4. f. 27. and 21 H. 7. f. 40. In a Court-Leet one prescribed and alledged a Custom, to have of every one which made an Assize within his Liberty, a certain Sum of Money, and prescribed also to distrain for it, and to sell the Distress; and with this agreeth 11 H. 4. 14. and 11 H. 4. f. 2.

Note, That in 8 R. 2. *Assize* 194. If one be amerced in the Sheriff's Tourn, the Sheriff may distrain throughout the whole County; and in like Manner if the Amerciament be in a Leet throughout all the Precincts of the Leet.

The Statute of 1 E. 4. expressly appoints, that no Fine or Amerciament in the Tourn or Leet shall be levied, unless it be certified at the next Sessions of the Peace by Indenture inrolled there, and by Process made from the Justices of the Peace to the Sheriff or Steward. Stat. 1 E. 4.

How Presentments in Leets shall be traversable.

A Traverse is a Plea of the Party, containing Matter to the contrary of that the Party stands accused of, or which is laid to his Charge.

Note, Scard saith, That if a Thing be presented at the Day in a Leet, this is as Gospel, if it pass that Day without being repealed: And therefore if a false Presentment be made, he shall have an Action of False Imprisonment the same Day against the Prosecutors; but if he stay until another Day, it is otherwise: And he who is amerced there for Purpresture, or other Nuisance, in Avowry for the Amerciament he shall traverse in no Point. *Wilby,* If it be presented, that he hath levied a Ditch over the Highway, if the Presentment be false, he shall have Trespass against him who throws it down by Force of such Presentment: And so of my Houfe abated, by reason of such False Imprisonment. *Hill. 21 E. 3. Bar. 271.*

*Hill. 21 E. 3.
Bar. 271.*

In some Cases the Books and Authorities of Law admit the Party to traverse, and in other Cases the same is to be denied: For in *5 H. 7. f. 9.* and *45 E. 3. f. 8. Dyer f. 13.* if one be presented in a Court-Leet for a Blowpipe or any other personal Wrong, this Presentment is not traversable, but the Party is without Remedy therein, though the Presentment be false, and the Matter of it untrue; and the Law is also of such a Presentment made in the Sheriff's Tourn: And herewith also agree the Books of *2 R. 3. 11.* and *19 H. 8. 11. Fitz. Aflize. plac. 442.* and *8 E. 4. 5.* and the Reason thereof (for *ratio legis* (*st anima legis*)) is delivered in *5 H. 7.* because no Process is there awardable against the Party to call him to answer: Yet in the same Book of *5 H. 7.* it is said, That if a Presentment be made which toucheth a Man's Freehold, he may there traverse the same. But I take it, the Party must first remove the Presentment into the King's Bench, and there traverse it; for in the Court-Leet there can be no Traverse taken or tried, no more where the Presentment toucheth Freehold, than where it only concerneth a personal Wrong; therefore the Reason alledged in *5 H. 7.* according to the Opinion of *Callis* in his reading upon the Statute of *Sewers, fol. 169.* cannot be the true Cause wherefore in personal Wrongs the Presentments cannot be traversed; but the very true Reason therein is, because these petty Presentments be of such petty trifling Matters, that in Avoidance of Trouble the Law esteemeth them not worthy of Traverse and Trial; *de minimis non curat lex*; and Justice *Fairfax* in *5 H. 7.* is of Opinion, That a Presentment made before Justices of Peace in a Sessions is traversable; and

and with this agreeth *Staundf. fol. 183.* and in other Courts of Law, there oftentimes fall out Matters which one shall not be admitted to take a Traverse unto, and in some other Cases he shall, as by these succeeding Authorities may appear. According to others more probably, the true Reason is, because all the Resiants are supposed to be present; and so they may traverse the Presentment when made. In the 37 *Affiz. plac. 7.* A Presentment was taken before *Green and Ingham*, Justices of the King's Bench, that *J. S.* who had killed *A.* had Goods to the Value of 80 *l.* in the Hands of one *John Lumbard*; and upon this Presentment a *Scire facias* was awarded against *John Lumbard*, to shew Cause wherefore these Goods should not be seized to the King's Use: *John Lumbard* came in and tendred a Plea to the Presentment, that these Goods were not the Felon's, but that they were delivered to him to keep to the Use of a Cardinal at *Rome*, and he was there admitted to this Plea; and with this agreeth 45 *E. 3. fol. 26.* expressly: Yet in that Book, and *Staundford, fol. 185.* it is holden for Law, That if it be presented before a Coroner, that *J. S.* killed *A.* and fled for the same Fact, and after, upon his Trial he is quit, yet he shall forfeit his Goods upon the *Fugam fecit* before the Coroner, and he shall not be received to take any Traverse to the said Presentment in that Point. The Difference in which two Cases is this, That a Stranger, as *John Lumbard* was, in the first Case shall not be peremptorily concluded; for it were no Reason one Man's Goods should be forfeited in another Man's Default, and he should have no Answer thereunto: But in the other Case, in Terror of Felons, though he be acquitted of the Felony, yet he is not acquitted of the Flying, and he may be guilty notwithstanding his Acquittal. There be other Cases in the Law which admit no Traverse, as in *Baggs's Case, Co. 11. Rep.* where a Writ was directed to the Mayor and Burgesles of *Plimouth*, to restore *Baggs* to his Alderman's Place there, which they had put him from, and they return a Cause sufficient to bar him, which notwithstanding is false; yet he shall not be received to his Traverse therein; neither could a Traverse be admitted in the Certificate of the Bishop, wherein was contained, that *J. A. Parson* of *D.* had refused to pay his Dismes to the King, by Means whereof the Parson lost his Benefice; which Case is in *Br. Cases, Temp. H. 8. pl. 332. Dyer fol. 116. 7 H. 4. fol. 4. 21 H. 7. 8.* and many other Books be, that no Averments shall be taken to the Returns of Sheriffs, to take any Issue thereupon; yet by the Opinion of those Books, an Action upon the Case lieth against the Mayor and Burgesles, and against the Bishop for their Certificates, and against the Sheriffs for their false Returns; and if Justification be made by them, they may be traversed: But these will not reduce the Parties to their former Liberties, viz. not the Alderman to his Place, nor the Parson

Parson to his Church; but Damages in those Cases are only recoverable. But now to return to the Tract from which I have a little deviated.

He who is amerced in a Leet may traverse the Resiency, but he shall not say the Place where is within another View. 4 E. 3. 12. 10 E. 3. 5. 41 E. 3. 26. But if he had been sworn in the Leet, he could not traverse. 10 E. 3. 9.

The Method of keeping the Sheriff's Tourn or Court-Leet.

LET the Sheriff (or Steward) make a Precept unto the Bailiffs, to summon the Court by a reasonable Time, to wit, fifteen or sixteen Days before the Court be kept (if it be less Time it is sufficient in Law) the Precept must be made sufficient according to this subsequent Precedent.

A. B. Ar. Vic. Com. Ebor. ballivo libertat. five wapentag. de S. salut. Tibi mando quod diligenter pramonere fac. Cur. cum vis. Franc. pleg. tenend. infra libertas. predict. xvi die. Augusti sequent. arc. baram octavo. ante merid. ejusdem diei. apud Com. Tolbooth de R. Et hoc. Sec. dat. sub sigillo officii mei xxviii Julii. anno Regni Car. secundi Dei gratia. Anglia. Scotia. Francia & Hibernia Regis fidei Defensoris, &c. xrv.

Per Vic. Com.

If it be in a Court-Leet held in a particular Hundred, or Manor of any Lord, then the Form of the Precept is thus:

A. B. Gen. Seneschal. I. N. Ar. Hundred. five Man. sui de O. ballivo ejusdem Hundred five Man. salut. tibi mando quod diligenter pramonere fac. hanc Curiam cum vis. Franc. pleg. Hundred. five Man. prad. tenend. ad locum consuet. de S. xvi die. Aug. prox. sequent. Et hoc. Sec. dat. sub sigillo mea xxviii die. Julii anno Regni Caroli secundi Dei gratia Angli. Scot. Franc. & Hibern. Regis fidei defensoris, &c. xrv.

After the Steward hath placed himself in the Court, he must enter the Court in the Title of the Beginning of the Court-Roll, with the Name of the Place where the Court is holden, in this Manner:

Ebor. H. Ebor. Franc. pleg. cum Curia A. B. Ar. Vic. Com. prad. ten. apud D. die Martis decimo sexto die Martii, anno Regni Dom. nostri Caroli secundi, Dei gratia Angli. Scotie, Francie & Hibernie Regis fidei Defensoris, &c. anno Dom. 1662.

Per eundem Vic.

If in the Lord's Court, then thus:

Ebor. ff. *Vifus Franc. pleg. cum Curia J. N. generosi Domini ejusdem ibid. sent. die Mercurii, &c.*

Per A. B. Seneschallum.

Then cause the Bailiff to make three Proclamations, repeating them after the Steward in this Manner:

Proclamation.

ALL Manner of Persons who were summoned to appear here this Day, to serve our Sovereign Lord the King, and the Sheriff (or the Lord of the Manor) for this Court now holden, draw near and give your Attendance, and every one of you answer to his Name as he shall be called, upon Pain of Amerciament.

After all are called, and those that are absent be marked to be amerced, then the Steward shall cause the Bailiff again to make other three Proclamations, viz. O yes, &c. causing the Bailiff to say:

Proclamation.

IF any will be essoined, come into the Court and you shall be heard, and all such Persons as were essoined the last Court, let them come in now and warrant their Essoins, otherwise they will be amerced. And if any desire to be essoined by Tithingman, or other Neighbour, then for the first Court they may be essoined.

The Essoin must be entred in this Manner:

A. B. per C. D. *essoniatur de communi, &c.*

Inquire if there be any Precepts, Attachments or Distresses depending in the Court-Rolls, call them openly in Court, and know if the Bailiff have executed them.

Then impanel the Inquest, commanding the Foreman to lay his Hand upon the Book, swearing him as follows:

You shall swear, that you shall diligently enquire, and true Presentment make of all such Things as you shall be charged with concerning our Lord the King, or the Lord's Court of the Manor; you shall well and truly keep his Majesty's Counsel, your Fellows, and your own; you shall not conceal or hide any Thing for Favour, Fear, Promise or Affection.

The Oath of the Foreman of the Jury.

- * Affection you bear to any Person or Persons, or present
- * any Thing for Hatred or Malice you bear to any Man; but
- * you shall present and tell the Truth, according as Things
- * may or shall come to your Knowledge by Information or
- * otherwise, making a true Presentment thereof without Con-
- * cealment: So help you God, &c.

After the Foreman is particularly sworn, cause four (at once) of the Inquest to lay their right Hands together on the Book, swearing them in this Manner :

The Oath
of the rest
of the In-
quest.

- * The same Oath which *A. B.* your Foreman on his Behalf
 - * had taken, you and every of you shall well and truly keep
 - * on your Behalf: So help you God.
- Swearing the rest accordingly.

After they are all sworn, cause the Bailiff to number them as the Steward doth read them.

Then command the Bailiff to make Proclamation, saying after the Steward.

Proclamation.

ALL Manner of Persons are commanded to keep Silence whilst the Charge is giving, under Pain of Imprisonment; and you that are impanelled and sworn, bear your Charge. Before the Charge gather the Common Fine, which the Tenants do pay every Leet or Law-day, according to the Custom of the Manor.

Then proceed to give the Charge.

The

The Charge of the Court-Leet.

YOU must understand, That High Treasons, Petty-Treasons and Felonies, which are against our Sovereign Lord the King, are to be inquired of and presented to this Court, but not punishable here; the which Offences you must set down in Writing, indented and sealed, the one Part to remain with the Steward, the other with the Jury, and the same must be delivered to the Justices of the next Assizes holden within the County.

Charge of the Court-Leet.

Judgment.

1. You shall first enquire of High Treasons; as if there be any among you that do compass, imagine or intend the Death of the King, or his Children, or of their Consenters, or to levy War against his Majesty, or be adherent to his Enemies.

2. If any counterfeit the Great Seal of England, or Money of this Nation, or do clip, wash, or round the same.

3. If a Servant kill his Master or Mistress; or if a Woman kill her Husband, it is Petty Treason, and here inquirable.

4. If one kill another in his own Defence, or by Accident, it is here to be enquired of as Bloodshed, &c. *Stat. 15. 4.*

Death, and Forfeiture of all their Goods and Chattels to the King, as well real as personal, moveable and unmoveable, Corn growing, and all their Debts due to them; scilicet, all such Goods and Chattels, &c. as they had at the Time of their Attainder.

High Treason.

Death, and Loss of Goods; but of Lands during Life only, and no Corruption of Blood, nor Forfeiture of Dower.

Death, the Escheat hereof appertains to the Lord of the Leet, for such Treasons touch not his Majesty himself.

Petty Treason.

Loss of Goods in both, and Charter of Pardon must be purchased for it. *Stat. of Glouc. cap. 9.*

Felony.

Charge of the Lect.

Judgment.

Rape.

5. If any Man ravish a Woman, whether Wife, Widow or Maid, tho' she doth afterward assent, it is here enquirable as Treasons. And their Aiders and Abettors are to be enquired of.

Death, and the Loss of Goods and Lands: The Benefit of Clergy is taken away, by the Statute of 18 Eliz. cap. 6. The Aiders and Abettors shall receive the like Punishment as well as he that committed the Fact.

Burglary.

6. Burglars are those, who in the Time of Peace, or in the Night-time, with a felonious Intent to rob or kill, do break any Houses, Churches, Walls or Gates, it is here enquirable. *Statute f. 20. 6.*

6. Death, and Loss of Lands and Goods, and so shall their Accessary.

Petty Larceny.

7. Petty Larceny is the felonious Intent and taking of any Thing under the Value of 12 Pence, as, Capons, Pigs, Hens, and such like, or Cloths off Hedges, and is here enquirable.

The Punishment is corporal, as Whipping, and Loss of Goods, if they have any; for the Law suffers no Offence to escape unpunished.

Phisomy defaced.

8. Putting out of Eyes, cutting out of Tongue, or disfiguring any Member, to the Intent they should not see nor speak, is here enquirable as Bloodshed.

Judgment of Death, and Loss of Lands and Goods. 5 H. 7.

Misprision of Treason.

9. Misprision of Treason is, if any know of Treason, and concealeth it four and twenty Hours, you are to enquire of it.

Loss of Goods and Chattels for ever, of Lands during Life, and perpetual Imprisonment, no Bail being admitted.

Sorcerers and Conjurers, Witches.

10. You are to enquire of Conjurers and Witches, and such as practise Diabolical Arts, or any Inchantments, whereby any Person shall be killed, destroyed, or consumed, it is Felony in them, their Abettors and Concealers.

Death grounded upon the Law of Moses, Exodus 21. 18. and Leviticus 20. 27. and Loss both of Lands and Goods. 5 Eliz.

Some of our Pulpit Temporizers would make Astrology (that sublime Science) one of the Number; but the Law is not guilty of their Ignorance.

11. The

Charge of the Leet.

Judgment.

11. The taking away of Ornaments feloniously out of Churches or Chapels, is here enquirable as Felony.

12. The felonious taking of Doves in Dove-houses, young Pigeons, Goshawks out of their Nests, taking of Fish out of Ponds, Stews or Trunks, (but in a common River otherwise) or taking Cignets, Swans marked, Peacocks, or any domestick Deer, knowing it to be so, and setting upon one in the Highway, though he take but the Value of a Penny, is Felony, and are here enquirable.

13. If any one feloniously burn any Dwelling-house, or Barns or Stacks, or Mows of Corn in the Night-season, it is Felony at the Common Law, and by you to be enquired of.

14. You are to enquire if any one procure or command another to commit the Felony, though he be not present when it is perpetrated, he is said to be an Accessary before the Fact: Or if any receive or aid a Felon, having Knowledge of the Fact which he committed, he is an Accessary after the Fact. *Staundf. 40.*

15. If any be arrested for Felony, or any other Crime, and afterwards the Party in whose Custody he is, tolerates him to go at large, this is a voluntary Escape, and enquirable.

Death, no Benefit of Clergy, Sacrilege.
Frustra petit auxilium Ecclesie, qui peccat contra Ecclesiam.

Death, with the Loss of Lands, Goods and Chattels, and the like, so their Accessary. 18 H. 8. c. 2. Co. 3. Inst. 107.

Taking of Doves, young Pigeons, Goshawks, Fish, Cignets, Swans, Peacocks, domestick Deer, and Robbery.

Death, and Loss of Goods and Lands. Burning of Houses or Barns.

The Judgment is the same at Accessaries against the Felon, according to the Merit of the Fact.

It shall be adjudged against him that suffered the Escape, as if he were the Offender. *Staundf. fol. 33.* Escape voluntary.

Charge of the Leet.

Judgment.

Escape
negligent.

16. If one be arrested for Felony, and escapeth, contrary to the Will of the Arrester, and is not followed with fresh Pursuit, nor taken before the Pursuer loseth sight of him, this is enquireable.

Though he be afterwards taken, yet it is finable according to the Quality of the Offence.

Rescue.

17. If any rescue and set at Liberty any Person apprehended, and arrested for Felony, it is Felony in the Rescuer, and here enquirable.
1 H. 7. 9.

The same Judgment is as in a voluntary Escape.

1 E. 3.

18. These Things mentioned in this first Part of the Charge, are here to be enquired of and presented, but not punishable here, but are to be certified by the Steward to the Justices of the Peace at the Sessions next ensuing. But the Maoters contained in the subsequent Part of the Charge, are here in this Leet to be enquired of, presented and punished, but not certified as in the Part preceding. And these are grounded upon Common and Statute-Laws of this Kingdom.

Constables,
Tithing-
men.

19. It behoveth you to enquire, if the Constables and Tithingmen have not been remiss in executing their Office upon Vagabonds, Rogues, and sturdy Beggars, that have come in within their Liberty and Charge.

For every such Neglect or Default they ought to forfeit 20 s.

You ought also to enquire of those that sustain and feed them.

The Penalty is 10 s. for every Time they give Alms to such.

Stocks.

20. You shall enquire if there be in every Tithing a Pair of good and sufficient Stocks according to the Statute, for the severe punishing of idle Persons.

If there be not, the Tithing loseth 5 l.

Hue and
Cry.

21. Whether Hue and Cry after Thieves and Robbers hath been duly pursued, lies next in your Way, to enquire of, presenting them that made Default.

The Penalty or Forfeiture of such Default 5 l.

Charge of the Leet.

Judgment.

22. All Purprestures are here enquireable, which are either in *eligendo* or *destruendo*, either in setting up, or casting down any Thing which may tend to a publick Annoyance; as in levying of Ditches or Hedges, or by making or filling up of Ditches, or if Walls, Houses, or Pales be made and erected, or thrown down, or any Ways or Paths opened, or stopped to the Damage of the People, or if any Waters be stopped or diverted out of their right Course; or if the common Rivers or Watering-places for Beasts be corrupted and annoyed with Hemp, Hay, and such like; or if any Encroachment be upon the King's Highway, or any Carrion or unwholesome Thing be cast into the same.

23. Enquiry is to be made of the Defect of Bridges or Causeways decayed or broken down, and who ought to repair them.

24. Enquiry also is to be made, if common Pounds be good and close to retain such Distress as shall be brought to them, until they be delivered thence by Order of Law, and to present such as ought to keep them in such Order, if they be taken.

25. And forasmuch as Highways (especially in Winter) are very troublesome to travel in, it was enacted, 1 & 2 P. & M. c. 8. That the Constables and Churchwardens of

The Party offending for every Common Time so doing forfeiteth 20 s. Nufance.
33 H. 8. cap. 17.

The Penalty is according to the Discretion of the Jury upon View. Bridges decayed.

This is also referred to the Jury's Discretion. Common Pounds.

Every Surveyor neglecting his Office, and making Default, forfeits 20 s. Surveyors of the Highways.

Charge of the Lect.

Judgment.

every Parish within this Commonwealth should yearly upon *Tuesday or Wednesday in Easter-Week* assemble a Number of the Parishioners, and elect two honest Men of them to be Surveyors of the Highways for one Year, and that they shall have Authority to direct the Persons that shall be appointed for the mending and repairing of them, according to their Discretion, faithfully executing their Office.

Every Person for every Plowland in Tillage or Pasture within the Parish, and every Person there keeping a Draught or Plough, shall send every Day (that the Ways are in mending) one Wain or Cart, with all necessaries convenient to carry Things, and also two able Men with the same.

Ditches, Hedges, and Highways kept and scoured.

Every other Householder, Cottager and Labourer, not being an hired Servant by the Year, shall by themselves, or one sufficient Labourer, upon every of the said Day's work there.

Stat. 3 & 4 W. & M.

By the Statute of 3 & 4 W. & M. cap. 12. intituled, *An Act for the better repairing and amending the Highways, and setting the Rates of the Carriages of Goods.* Surveyors of the Ways and Parishioners, are to meet on the 26th of December yearly, to make a List of the Men qualified by that Statute for Surveyors, and they are to be appointed by the Justices of the Peace at a private Sessions, to be holden the 3d of January, or within fifteen Days after, and to execute the Office upon Penalty of *5 l.* and to view the Highways, and to present upon Oath, and to give Notice of Defaults to the Owners or Possessors, and publick Notice in the Church. See the Statute at large.

The Penalty for every Draught, making Default is 20 s.

The Penalty for every one making Default every Day 8 d.

Charge of the Leet.

Judgment.

26. You shall enquire if any Hays, Fences, Dikes or Hedges next adjoining on every Side, to any High or Common Ways, be from Time to Time ditched, scoured, repaired and kept, and all Trees and Bushes growing in the Highways, be cut down by the Owners of the Ground or Soil, whereby the Ways are opened, and the People may have a more easie Passage.

27. You shall further enquire if any ancient Bounds, or Land-marks be withdrawn and taken away, such as distinguish or divide Hundreds, Parishes, Tithings, Commons, Common-Meadows, and Common-Fields, to avoid Confusion, and consequently Dis-sension. 18 Ed. 2.

28. You shall further enquire if there be any common Breakers of Hedges or Fences, by which their Neighbour's Ground is made subject to the Incurfions of Cattle, which are the Grounds of many Actions of Trespafs, to the Disturbance of the Peace of the Kingdom.

29. You shall also enquire of the Breach of any common Pound to take away Distress out of it, though the Distress be without Cause. Or if any shall rescue, or take away by Force any Cattle, which is distrained for any Rent, Amerciament, or other Cause, before it be in custodia legis, in the Custody of the Law, or impounded, it is presentable.

*Every Person was so doing for-
feited 20 s. 18 Eliz. 2.*

*Fined according to the Discre-
tion of the Jury.*

Such Offenders are to be fined and whipped.

*Fines according to the Dis-
cretion of the Jury.*

*Or a writ de parco fracto,
Heb against him: at Common
Law. F. N. B. 139.*

Boundaries

**Hedge-
breakers.**

**Pound-
breach.**

Rome.

If any by preaching, printing, writing or teaching, or otherwise, hold or stand with, extol or defend the Authority of the Bishop of Rome, heretofore used or usurped within this Realm, he incurs the Danger of the Statute of 16 R. 2.

This Statute is to be read or declared in every Leet.

31 Eliz.
Erecting
Cottages,
or con-
verting to
Cottages
without
four Acres,

No Person shall build or erect any Cottage for Habitation, or convert any Building or House to that End, unless he do lay four Acres of his Freehold Inheritance near to the said Cottage to be occupied therewith, upon Pain to forfeit to the King, his Heirs and Successors, 10*l.* for every such Offence.

10*l.* every Offence.

Continu-
ing Cot-
tages, 10*l.*
a Month.

And every Person that shall willingly uphold, maintain and continue any such Cottage, &c. for Habitation, shall forfeit 10*l.* for every Month that it be so continued.

Inmates.

There shall be no Inmate, or more Families or Household than one dwelling in any one Cottage, made or to be made, upon Pain that every Owner or Occupier of such Cottage, placing or willingly suffering any such Inmate, shall forfeit to the Lord of the Leet 10*s.* for every Month that such Inmate shall dwell; except Cottages in Market-Towns, Cities, Towns Corporate, and for Labourers in Mines, and for making Brick, Coals, &c. and within a Mile of the Sea, for a Sailor or manual Artificer for Shipping, and for Foresters and Shepherds, and to be appointed by the Justices in Assize or Sessions, &c.

10*s.* per
Mensem.

Excepted.

A Steward of a Leet may enquire and take Presentments of Offences contra Stat. 31 Eliz. against erecting Cottages, and Inmates, and upon such Presentments to levy by Distress such Forfeitures to the Use of the Lord of the Leet.

Forfeits ad
usum Dom.
Lete.

The Lord may sue for them in any of the King's Courts by Action of Debt.

Charge of the Leet.

Bloodshed.

30. You shall also enquire, if any Assaults be committed, whereby Bloodshed ensueth to the Disturbance of the People of this Kingdom which are here enquirable. 1 R. 3. f. 1.

Rescous.

31. You shall further enquire if any Rescous were committed upon the Sheriff or his Bailiffs in Disturbance of them from the taking and detaining any Person arrested.

Judgment.

The Fine for the Offence is according to the Discretion of the Jury, but commonly it is 3*s.* 4*d.*

An Action lieth against the Offender at the Common Law.

Charge of the Leet.

Judgment.

32. You shall enquire if there be within the Precincts of the Leet any Common Barretors, such as are Common Incendiaries of Strife and Discord amongst their Neighbours, and are ever fishing in troubled Waters: They are of both Sexes, Scolds, Brawlers, Inventers and Dispersers of Calumnies and Reports, whereby Discord and Inquietude ariseth in the County.

33. You shall enquire if any Alehouse-keeper, &c. have permitted any Inhabitant or Townsman (except Labourers and Handicraftsmen, or Persons invited by Travellers) to continue tipling or drinking in any such House.

34. You shall enquire if any buy or cause to be bought any Victual, or other Thing, coming towards any Fair or Market, to be sold in the same, or shall make any Bargain, Contract or Promise, for the having or buying the same, before it shall be in the Market, &c. such shall be adjudged a Forestaller.

35. You shall enquire if any regrate any Corn, Butter, Cheese, or other dead or quick Victuals whatsoever, that shall come to any Fair or Market, to be sold, and doth sell the same again in any Fair or Market, holden in the same Place, or within four Miles thereof, shall be adjudged a Regrator.

Such Persons must give Sureties Common for their Good Behaviour, being Barretors. Disturbers of the Peace.

David Saunders

his Book

Save the King

The Pain or Forfeiture of the Alehouse-keeper, for every such keepers. Offence (to the Use of the Poor of 4 Jac. 1. the Parish) 10 s. 6. 5.

He that is convicted thereof, is Forestaller. for the first Time to be imprisoned for two Months, and the Loss of the Value of the Thing sold.

The second Time imprisoned by the Space of half a Year, and shall lose the double Value of the Goods, &c.

The third Time during his Majesty's Pleasure, and Judgment of the Pillory, forfeiting all his Goods and Chattels. See Stat. 5 E. 6. cap. 14.

The Judgment of a Forestaller. Regrator.

Charge of the Leet.

Judgment.

Ingrosser.

36. You shall enquire if any do ingross and get into their Hands, or promise taking (unless it be by Demise, Grant or Lease of Land) any Corn growing in the fields, or otherwise, Butter, Cheese, or other Viſual, to the Intent to sell it againe, shall be reputed an illegal Ingrosser.

Affize of Bread.

37. You shall enquire if any Baker shall make and put to Sale any Bread which is not of good and sufficient Weight and Affize, according to the Rate and Prizes of Corn and Grain in the Markets adjoining, or such as is not wholesome Nourishment for Man. And that he set his own Signet upon every Loaf of Bread that he vends, to the End that if it want Weight, it may be known in whom the Fault lies.

Brewers.

38. You shall likewise enquire if Brewers do make Ale and Beer healthful for Man's Body.

Viſtuallers
2 E. 6. j. 15.

39. You shall further enquire if any Viſtualer, together with Poulterers, Cooks, Butchers, Bakers or Brewers, have conspired or made Oath not to sell any Viſtuals but at certain Prizes; enquiring likewise of the like Conspiracies of Artificers and Labourers, to do but certain Work in a Day, and that at certain Hours.

The same Judgment of a Fore-
ſtaller and Regrator.

For the first, second, and third Time he shall be amerced according to the Merits of the Fault, and shall from Time to Time lose his Bread so found defective in Weight. But if he transgress the fourth Time, then shall he be in the open Fair or Market stand upon the Pillory.

Finable, at Discretion of the Jury.

Every such Person so doing, being thereof lawfully convicted, shall forfeit for the first Offence 10 l. within six Days after Conviction, or twenty Days Imprisonment; having only Bread and Water for his Sustenance.

For the second Offence 20 l. or else to stand on the Pillory.

And for the third Offence 40 l. on the Pillory, and to lose one of his Ears, and ever after to be taken as an infamous Person, and his Oath not to be credited in any Matter of Judgment.

40. You

Charge of the Leet.

Judgment.

40. You shall enquire if any Inholders or Hostlers sell their Horse-bread, Hay, Oats, Beans, Pease, Provender, and all kind of Victual, both for Man and Beast, for reasonable Profit, having Respect to Prices in the Market.

For the first Offence to be fined Inn-hold- according to the Quality of the Offence.

The second Conviction, Impri- sonment for one Month without Bail.

The third to stand on the Pillory.

And the fourth after Judg- ment of the Pillory given, he shall be forejudged from keeping any Inn again.

Fineable.

Butchers.

41. You shall enquire if any Butchers do sell any Manner of corrupt Victuals, or any contagious Flesh, that dieth of any Murrain or any other Disease, or kill and sell the Flesh of any Bull unbaited, or do puff and blow up Meat with their Breath, whereby it proves deceitful and un- wholesome.

He shall not kill any Calf to sell, being under the Age of five Weeks.

Neither shall he use the Craft or Mystery of a Tanner, during the Time he is a Butcher.

The Forfeiture for every Calf so killed and sold, is 3 s. 4 d. by the Statute of 1 Jac. 22.

For every Day 6 s. 8 d. Stat. Jac. 1. cap. 12.

42. You shall likewise en- quire if any keep and use any false Weights and Measures of Busbels, Gallons, Ells, Yards, or false Weights, Ballances or Pounds; or if any use double Weights, the greater to buy with, the les- ser to sell with, to deceive the Nation.

To suffer Imprisonment until he hath made Fine to the King for the Offence.

False Weights and Mea- sures.

And if any sell any Corn, Wine or Ale but by a Sealed Measure.

For the first Offence, 1 s. 4 d. For the second Offence, 6 s. 8 d. For the third Offence, 20 s. to be set on the Pillory, and the Measures not sealed to be broken.

1 43. You

Charge of the Leet.

Judgment.

Tanners.
1 Jac. 1,
c. 22.

43. You shall also enquire if any Tanner doth use the Mystery of a Shoemaker, Currier or Butcher.

Or if he forestall any Hides, coming to the Market, or buy any Hides in open Market, unless it be of a Beast killed for one's own private Provision.

Or if he have offered to sell any Leather before it be well dried, sorted and marked, or hath tanned any Sheep's Skins, or if he put his Leather into any warm Woozes.

Curriers.

44. You shall enquire if any Currier doth exercise the Mystery of a Tanner or Shoemaker, during the Time he shall exercise the Trade of a Currier; or if he shall curry any Hide or Skin (except it be perfectly tanned) being not thoroughly dry, or shall burn or scorch any Hide or Leather in the currying.

Shoemakers.

45. You shall further enquire if any Shoemaker do cause any Boots, Shoes, Slippers, &c. to be made of any Leather, but such as is well and truly tanned, curried and substantially sowed.

Searchers
and Sealers
of Leather.

46. You shall enquire if any Searcher and Sealer of Leather do refuse with convenient Speed to seal any lawful Leather.

Or if he receive any Bribe, or exact any Fee for the execution of his Office (except what is limited by the Statute.)

The Pain is to lose all the Hides or Skins so wrought, or the Value thereof.

For every Hide so bought he forfeits 6 s. 8 d.

For every Offence 10 l. and to stand on the Pillory three several Market-days.

To forfeit for every Hide or Skin 6 s. 8 d. and the Value of every Hide or Skin spoiled by his Workmanship.

The Penalty for every Pair of Shoes, Boots, &c. made or sold otherwise, 3 s. 4 d. and the full Value of the same.

The Penalty for every such Offence is 40 s.

For every such Bribe or Fee 20 s.

47. You

Charge of the Leet.

Judgment.

47. You shall enquire if any keep and maintain any Common-house, Alley, or Place of Bowling, Carding, Dicing, or any other Game prohibited by any Statute, or any other illegal Game, hereafter to be found out or invented.

Every Person that is found playing in the said Places or Houses, shall be by you enquired after.

All Constables, Tithingmen, Bailiffs, &c. ought to search once every Month for unlawful Games, as well within the Franchise as without.

48. You shall enquire of such as shoot either in Hand-Guns or Pistols, Cross-bows or Stone-bows; for all are prohibited to shoot in them; (except such as can dispend 100 l. per Annum) at any Hern, Duck, Mallard, Pheasant, Partridge, Pigeon, Heathcock, Teal or Wigeon.

Or, (1 Jac.) he that shoots at any of the said Fowls, or at any Deer or Hare, and cannot dispend ten Pounds per Annum in Land, nor is worth two hundred Pounds in personal Estate.

49. You shall further enquire of such as destroy any Fry of Fish in the Waters, Streams or Rivers, within the Precincts of this Leet with any Manner of Nets, or any Devise or Engine, (Angling excepted.)

For every Day 40 s.

Unlawful Games.

33 H. 8. 9.

Forfeit for every Time 6 s.

8 d.

In Default thereof, they forfeit for every Month's Neglect 40 s.

Upon Pain of 10 l. for every Time he shoots.

Shooters in Hand-guns,

Cross-bows, &c.

33 H. 8. 6.

Forfeits for every Shoot 20 s. to the Use of the Poor of the Parish; if he neither will nor can pay so much, then three Months Imprisonment, if he can dispend 10 l. a Year or above, then the Pain is 40 s. and finding sufficient Sureties that he shall not commit the like Offence again.

The Penalty is for every Time 10 s. The Fish taken, and the Nets, &c.

Fry of Fish, Eliz. 17.

Charge of the Leet.

Judgment.

Pheasants
and Par-
tridges.
23 El. 10.

Hawking
or Hunt-
ing with
Spaniels,
&c.

Tracing of
Hares.
14 H. 8.

Breaking
of Ponds.

Eyes-drop-
pers.

Musters.
4 & 5 P.
& M. c. 3.

Horses in-
fected.
32 H. 8. c. 13.

50. You shall also enquire if any have destroyed any Pheasants or Partridges, with any Nets or other Devises in the Night-time.

51. Or if any do hawk or hunt with Spaniels, where Corn grows, except it be his own Ground.

52. You shall enquire if any do destroy or kill Hares by tracing in the Snow, with a Dog or otherwise.

53. You shall likewise enquire if any do break any Pond, Pool, or other Pits, wherein the Lord of the Leet hath any Fish, to the Intent to destroy and steal them away.

54. You shall enquire of Eyes-droppers, such as stand under Walls or Windows, by Night or Day to hear News, and to carry it to others, to make Strife and Debate amongst their Neighbours, these are evil Members of the Commonwealth, and here enquirable.

55. You are to enquire if any refuse to go to muster, or absent himself without any lawful Impediment.

56. You shall enquire if any have put to Pasture any stoned Horses, Gelding or Mare infected with the Scab, or other infectious or contagious Disease, into or upon any Common or common Fields.

For every Pheasant 20 s. and every Partridge 10 s. to be paid within 20 Days after Conviction, or one Month's Imprisonment.

The Penalty is 40 s. to the Party vexed.

The Penalty to the Lord of the Leet for every Hare is 6 s. 8 d.

He shall pay to the Lord reasonable Damages, suffer Imprisonment for three Months, and find Sureties for his Good Behaviour for seven Years.

Such Offenders are punishable according to the Discretion of the Jury.

The Penalty is 40 s. and ten Days Imprisonment.

The Penalty to the Lord of the Leet (for every such Horse infected) is 10 s.

Charge of the Leet.

Judgment.

57. You shall likewise enquire if Constables have been diligent in seeing the Peace kept, and observed Watch and Ward, from the Day of the Ascension until Michaelmas Day, every Night from the setting of the Sun, until its rising. 13 E. 1. c. 4. and if they have been remiss in any Thing touching their Oath, it is presentable.

For such Neglect the Constables Watch and are fineable according to the Discretion of the Jury. Ward. 13 Ed. 1. Stat. de Winton.

Enquire the like of all the rest of the Officers, according to the Places they are in, as the Tithingman, Surveyors of the Highways, Searchers and Sealers of Leather, &c.

No Person shall make any Barly-Malt, (except in June, July and August) but it shall have in making thereof, viz. in the Fat, Floor, steeping and drying three Weeks at least, and in the aforesaid three Months 17 Days at least, under which Time it cannot be well made; on Pain of forfeiting for every Quarter 2 s. to the King and Informer, to be recovered by Action, Bill, Plaint or Information, &c.

No Person shall mingle any Malt not being well made, or made of Mow-burnt or spired Barly with other good Malt, and so put it to Sale, Penalty 2 s. a Quarter *ut supra*.

None shall put to Sale any Malt not well trodden, rubbed and fanned, whereby there may be fanned half a Peck of Dust out of a Quarter, or more, Penalty 20 d. a Quarter, to be recovered *ut supra*.

Justices in Sessions and Stewards of Leets have Power to enquire, hear and determine as well by Presentments of twelve Men, as Information of two honest Witnesses, of all Offences aforesaid, as well for the King as Party prosecuting, causing the same to be presented.

Bailiffs and Constables may search, and finding Malt *contra hoc Statutum*, may by the Advice of a Justice of the Peace, cause the same to be sold under the common Price.

This Statute does not extend to those who make Malt for themselves.

These Presentments must be in one Year after the Offence committed.

59. You

Charge of the Leet.

Judgment.

Treasure-Trove.

59. You shall also enquire of Treasure-Trove, viz. Treasure found within the Precincts of this Leet, either within or above the Ground, the Hiders not being known to any Man.

It appertains to the Lord of the Leet.

Waifs, Estrays, &c.

60. You shall likewise enquire of all Estrays and Waifs, as if there be any Horses, Mares, or other Cattel or Swans, that have come within the Jurisdiction, and remained there a Year and a Day, and not claimed, these are Estrays.

The Lord may have them by Prescription.

And Waifs are Cattle stolen, and waved out of the Possession of him that stole them, as a Thief being pursued with Hue and Cry to save himself doth relinquish them, they are called by the Civilians, *bona derelicta*.

The Waifs appertain to the King, unless the Lord have them by Grant in his Charter.

But not to charge your Patience with Prolixities; if there shall be any other Matter come to your Knowledge, omitted in the Charge, and fitting to be presented, you shall enquire and present it with the rest; and also the Names of such Persons as you chuse for Officers for the ensuing Year.

Then after the Charge is concluded, the Steward shall command the Crier to make Proclamation, and after Proclamation made three Times, the Steward shall say;

• If any can inform the Steward or this Inquest of any
• Treason, Petty-Treason, Felony, Petty Larceny, Purp-
• sure, breaking of Ponds, or of Rescous, or of any other
• Thing acted against the Peace, or of any Misdemeanor of
• any Officer, or other Person here, or of any Waif or Stray,
• Treasure found, Mortmain, or of any other Thing here
• to be enquired of, come into Court and you shall be heard.

If any come in, and appear, let him be sworn thus:

• The Evidence that you shall give to this Inquest shall be
• the Truth, the whole Truth, and nothing but the Truth:
• So help you God, &c. Then

Then let the Steward say to the Jury,

‘ Go together, and enquire of the Matters of your Charge,
‘ and when you are agreed, I shall be ready to take your
‘ Presentments.

Then adjourn the Court by Proclamation, until after Dinner in this Manner :

‘ All Manner of Persons that have any more to do at this
‘ Court, may for the present Time depart, and appear here
‘ again at one of the Clock in the Afternoon.

After your Return from Dinner, call the Court by Proclamation, and after *O yes* three Times, say,

‘ All Manner of Persons that were adjourned over until
‘ one of the Clock, or have any Thing more to do at this
‘ Court, let them come into Court and give their Attendance,
‘ as they will answer the contrary at their Peril.

Then take the Presentments of the Jury, if they be there ready with them ; otherwise give them a Day to bring them in, and adjourn the Court till then. At the Day call the Court. And then call the Jury, every Man by his Name, and if they all appear, take their Presentments, and ask them if they be all agreed ; if they say yes, then ask them if they be content that their Presentments shall be altered in Form ; if they grant it, then take them, read them, and amend the Form, if need require ; see that they be brought under their Hands and Seals for the Steward’s Warrant.

Then discharge the Court with Proclamation, command the Cryer to say *O yes* three Times, and say,

‘ All Manner of Persons that have appeared, and have
‘ any Thing more to do at this Court-Leet holden here this
‘ Day, let them come forth, and they shall be heard, otherwise they may depart, and are discharged of their Attendance, and are to keep their Day again upon a new Summons.

Adjournment.

In *Kil. Rep. fol. 141.* there is a Custom alledged, that two Men within the Provost might present the Articles of the Leet, but *Callis* in his reading upon the Statute of *Sewers* doubteth of such Presentment, though it hath a Custom to strengthen it.

A Precedent of the Roll of a Court- Leet, with great Variety of Pre- sentments and Orders.

*Visus franc. pleg. ibidem tent. die Jovis, die, &c.
anno Regni, &c. Dei gratia Magnæ Bri-
tannia, Francia & Hibernia Regis fidei de-
fensoris, &c.*

Esson.

Robertus Martin per Johannem Style esson. de commun. & issint
les aut. esson.

*Jur. pro
Dom. Reg.*

Johannes Doe,
Richardus Roe, *Jur.*
Johannes Den,
Willielmus Fen,
Willielmus Neile,
Johannes Sneil, *Jur.*
Willielmus Riggs,
Thomas Riche,

Johannes Hie,
Thomas Pie,
Johannes Myles,
Thomas Gyles,
Richardus Cooke,
Johannes Turke,
Richardus Leake,
Johannes Peake.

*Present pro
Rege Petis
Treason.*

Imprimis, *Jur. præd.* dicunt super eor. sacrament. quod R. S.
&c. apud J. infra jurisdictionem hujus Curia ut Felo Dom. Reg. cen-
tum angelos aureos & trecent. grossos falso & felonice excudebat &
fabricabat (literis patentibus Dom. Reg. inde prius non obtent.) contra
pacem dict. Dom. Reg. nunc coronam & dignitatem suam ac contra for-
mam Statuti in hujusmodi casu editi. & provis.

*Felonie
Combur.
treason.*

Item, *Present.* quod quidam T. de J. præd. Yeoman, tali die, &c.
apud J. infra jurisdictionem hujus Curia, vi & armis, &c. volun-
tarie & felonice ex malitia sua præcogitata domum cujusdam J. S. com-
bussit contra pacem Dom. Reg. ideo præceptum est ballivo seiscire omnia
terras & tenementa bona & catalla sua, ut respondeat de eisdem Do-
mino hujus Manerii.

Item, *Præsent.* quod W. P. de J. præd. Labourer, tali die, Felon. &c. apud J. infra jurisdictionem hujus Curia vi & armis, &c. ac contra pacem clausum cujusdam, &c. apud J. præd. fregit & intravit, & unam Tunicam hyneam vocatur Satten, coloris nigri, de bonis & catallis præd. &c. adtunc & ibidem inventi. felonice cepit & asportavit. Ideo præceptum est ballivo, &c.

Item, *Præsent.* quod W. S. de J. præd. Yeoman, infra Juris. Accessory: dictique hujus Curia consultavit, instigavit, procuravit, confortavit & abettavit quendam L. M. &c. unam vaccam coloris nigri, pretii, &c. de bonis & catallis cujusdam, &c. adtunc & ibidem inventi. felonice furari, capere & abducere. Ac præd. L. virtute consultationis, instigationis, procurationis, confortationis & abettationis præd. &c. prædictam vaccam, tali die, &c. anno, &c. felonice furatus fuit, cepit & asportavit.

Item, *Præsent.* quod A. B. de J. præd. Yeoman, tali die, &c. Rape. apud J. infra jurisdictionem hujus Curia clausum & domum cujusdam, &c. fregit & intravit, & in quendam Katharinam, &c. filiam, &c. in pace Dei & Dom. Reg. existen. insultum fecit & ipsam vi & armis adtunc & ibidem contra voluntatem suam rapuit, & eam carnaliter cognovit contra pacem, &c.

Item, *Præsent.* quod B. D. de J. præd. Yeoman, tali die, &c. Felon in: apud J. infra jurisdictionem hujus Curia, circa horam nonam in nocte fregit men- ejusdem diei, domum & mansionem cujusdam, &c. ut felo Dom. Reg. son. fregit & intravit, ea intensione ad spoliandum præd. &c. & sex angelos aureos de bonis & catallis præd. &c. adtunc & ibidem in quadam cista existen. felonice cepit & asportavit contra pacem, &c.

Item, *Præsent.* quod E. F. de J. præd. Labourer, tali die, &c. Roboria. apud J. infra jurisdictionem hujus Curia vi & armis ac contra pacem &c. in quendam T. D. apud, &c. infra jurisdictionem hujus Curia in regia via ibidem in pace Dei & Dom. Reg. existen. insultum fecit & ipsum T. D. adtunc & ibidem spoliavit & sexdecem grossos argenteos, & unum angelum aureum de bonis & catallis præd. T. D. in quadam masupio suo adtunc & ibidem existen. a persona ipsius T. felonice cepit & asportavit, contra pacem Dom. Reg. coronam & dignitatem suas, &c.

Item, *Præsent.* quod præd. T. D. existens spoliatus. l. vavit magnum butesum & exclamation. & præd. E. F. tanquam felon. dict. Dom. Reg. dict. die & anno in præd. loco ubi sic spoliatus. fuit resenter insequeretur, usque ad præd. villam de, &c. & quod nullus inhabitans ibid. præd. felonem super butesum præd. insequeretur & sic præd. felo evasit in dict.

dict. Dom. Reg. contemptum, ac contra formam Statuti de Winton in huiusmodi casu edit. & provis. ideo predicta villa de, &c. in misericordia, &c.

Fugam
fecit.

Item, Present. quod E. L. de J. præd. Yeoman, tali die & anno, &c. apud J. infra jurisdictionem huius Curie quandam spadonem coloris albi, precii, &c. de bonis & catallis cuiusdam, &c. in communi campo ibidem existen. felonice furatus fuit, cepit & abduxit. Et quod præd. E. L. pro feloniam præd. se retraxit & effugit. Ideo præceptum est ballivo seire duas vocas de bonis & catallis præd. E. L. tanquam esebat. & Domino satisfaci. Et quod salvo custodiantur ad usum Dom. &c. vel sic, ad usum Reg.

Escape.

Item, Present. quod cum quidam B. R. de J. præd. Yeoman, capt. fuit & arrestat. pro suspitione cuiusdam feloniam, & in cippis posit. quidam J. E. de J. præd. Labourer, tali die & anno, &c. apud J. præd. præd. cippos vi & armis ac felonice fregit, & præd. B. R. adiunc. & ibidem evadere & ad largum ire permisit contra pacem, &c. ideo præceptum est ut prius, &c.

Felon.

Item, Present. quod T. I. de J. præd. Yeoman, tali die, &c. apud J. infra jurisdictionem huius Curie anum vitulum precii, &c. de bonis & catallis cuiusdam J. B. adtunc & ibidem invent. felon. cep. & asport. Et quod W. Q. ballivus manerii præd. tali die & anno, &c. apud J. præd. præd. T. J. pro suspitione feloniam præd. arrestavit, & quod W. E. de J. præd. Labourer, vi & armis, &c. apud J. præd. dict. die & anno in præd. W. Q. in pace Dei & Dom. Reg. existen. insult. fecit & præd. T. I. in custodia præd. W. adtunc & ibidem existen. felonice cepit, arripuit & rescussit & ad largum ire permisit contra pacem, &c. ideo præceptum est ut supra, &c.

Felon
calumbar.

Item, Present. quod A. B. de J. præd. Yeoman, tali die & anno, &c. apud J. infra jurisdictionem huius Curie circa boxam primam ex nocte ejusdem diei, quoddam columbare cuiusdam, &c. fregit & intravit, & quadraginta columbas precii, &c. de bonis & catallis præd. &c. a domo ejusdem, &c. felonice cepit & asportavit contra pacem, &c. Ideo, &c.

Felon
Domæ do-
mest.

Item, Present. quod J. W. de J. præd. generosus, tali die, &c. apud J. infra jurisdictionem huius Curie quandam damam domesticam & gerentem campanam circa collum suum precii. &c. de bonis & catallis cuiusdam, &c. adtunc & ibidem invent. felonice cepit & asportavit contra pacem, &c. Ideo præceptum est ballivo ut supra, &c.

Item,

Item, Present. quod quidam J. S. de J. præd. Yeoman, tali die, &c. apud J. infra jurisdictionem hujus Curie viros bonam primam in nocte ejusdem diei quendam truncum ejusdem, &c. fregit & intravit & decem pisces vocatos (Pikes) præd. &c. de bonis & catallis præd. &c. a trunco ejusdem, &c. audivit & ibidem felonice cepit & asportavit contra pacem, &c. Ideo, &c.

Felon. de trunco fract.

Item, Present. quod P. J. de J. præd. Yeoman, tali die, &c. clausum cujusdam, &c. apud J. præd. fregit & intravit & manum autilem vocatum (a Towel) pretii vi d. de bonis & catallis prædicti. &c. adit & ibidem invenit. felonice cepit & asportavit. Ideo præceptum est ballivo seiscire omnia bona & catalla sua in manus Dom.

Petit Larceny.

Item, Present. quod W. B. & T. W. de J. præd. carnifices tali die, &c. infra prædicti. visus franc. pleg. posuerunt carnes suas & alia venalia in Ecclesia & Cemiterio de J. præd. prædicti. ad vend. easdemq; ubi divina servitia celebrantur, & humana corpora sepeliuntur, vendiderunt contra formam statuti de Winton in hujusmodi casu editi & provisi ideo ipsi in misericordia, &c.

Vend. in Cemiterio.

Item, Present. quod quidam M. S. veniebat infra jurisdictionem hujus visus franc. pleg. & hic attulit quidam bona & catalla per ipsam furata, videlicet, unum indusum lineum pretii, &c. & diversa alia vestimenta anglice (one Smock, one Petticoat and one Shirt) quæ omnia prædicta valent xx s. & non amplius, & quæ omnia & singula hic per præd. M. allata fuerunt. Et eadem M. hic infra jurisdictionem hujus Manerii illa waviovit, reliquit & aufugit per quod omnia bona & catalla præd. pervenerunt Domino istius Manerii super quod præceptum fuit ballivo seiscire in manus Domini tanquam escheat. & Domino satisfacti. & sic fecit, & bona & catalla præd. fuerunt deliberata Domino in ipsa Curia.

Catalla auriar.

Item, Dicunt quod dant Domino de certo pro communi fine ad hunc diem ex antiqua consuet. vi s. viii d.

Communis finis.

Item, Present. super eorum sacramentum quod Johannes Wigge, Richard Wrenne, & Jo. Williams sunt resantes infra prædicti. vis. franc. pleg. præd. & ad hunc diem fecerunt defaultam. Ideo quilibet eorum in misericordia, ut patet super eorum capisa.

Decem. qui sec. default.

Item, Present. quod Richard Wrench, William Finch, R. Bettes & Wilhel Gybey inhabitaverant infra prædicti. hujus vis. franc. pleg. per spatium unius anni & diei & amplius, & non jurantur Dom. Reg. pro legiantia. Ideo quilibet eorum in misericordia, prout patet super eorum capisa.

Non jur. in & jur.

*Nocument.
agua.*

Item, *Præsent.* quod R. C. de J. præd. Yeoman, diversit communem cursum cuiusdam rivuli ducent. per domum cuiusdam T. H. extra rectum cursum quo solebat currere. Ideo præceptum est ei dimittere in suo recto pristino cursu citra festum, &c. sub pana, &c.

*Nocument.
frondes.*

Item, *Præsent.* quod est quedam sepes de magna crassitudine, & quod frondes inde pendent ultra venellam vocatam (Kinslane) ad nocumentum carriag. ultra eandem venellam carriand. in defectu W. G. Ideo præceptum est ei succidere sive amputare illas citra festum, &c. sub pana, &c.

*Nocument.
gustura.*

Item, *Præsent.* quod est quedam guttura ducens a domo sive coquina T. J. per quam sordida sive aqua fetosa a dict. equina est conducta in regiam viam ad grave nocumentum Regia via & omnium carriag. ultra eandem carriand. per populum Dom. Reg. Ideo præceptum est ei amovere sive obstopar. ill. citra festum, &c. sub pana, &c.

*Communis
via.*

Item, *Præsent.* quod communis via ducens per campum vocat. (le prebend Field) est communis via ad ducend. & equitand. & sic usa fuit a tempore cujus contrarii memoria hominis non existit. Et quod porta & pons existet. ultra ulteriorem pontem debent esse manent. & custodit. per terra tenent. & modo non sunt. Ideo præceptum est terra tenent. eandem portam & pontem emendare & rescire ante festum sancti J. Baptista prox. futur. sub pana, &c.

*Nocument.
sterquilinum.*

Item, *Præsent.* quod R. W. erexit quoddam sterquilinum adversus damum suam prope regiam viam ad nocumentum populi Dom. Reg. Ideo præceptum est ei amovere & abscurare ill. citra festum, &c. sub pana, &c.

*Nocument.
fossat.*

Item, *Præsent.* quod est quoddam fossatum in scorat. & immundat. in defectu B. S. ad nocumentum, &c. Ideo ipse in misericordia xli d. & præceptum est ei escor. sive mundare ill. citra festum, &c. sub pana ii s.

*Hospitatrix
meretricium.*

Item, *Præsent.* quod A. B. vidua est communis hospitatrix & receptrix meretricum & mulierum mala fama & conversationis ad grave nocumentum vicinorum.

Objurgatrix.

Item, *Præsent.* quod N. C. vidua est communis objurgatrix cum vicinis suis & communis fratricum, & ipsa non est de bona fama sive gubernatione. Ideo ipsa in misericordia ut patet super, &c.

Item.

Item, Present. quod quidam A. B. serviens W. C. ballivi Domini, *Transgr.*
ut fuit deducens certa catalla ejusdam R. G. usque parcum Domini
ibidem imparet. venit quidam E. P. cum violentia magna in parcum
præd. cum uno gladio pretii v s. Et adtunc & ibidem præd. A. B.
percutit eum eodem gladio super caput ejus, & sic effudit sanguinem su-
per eundem A. B. occasione cujus percussione præd. B. cecidit ad terram
quasi mortuus esset. Ideo præd. E. P. in misericordia, & affr. per
capital. pleg. ad quinque solidos.

Item, Present. quod J. S. fecit affraiam infra jurisdictionem hujus *Affraia.*
Curie & traxit sanguinem, ideo est in misericordia, iii s. iv d.

Item, Present. quod W. G. est constabular. & non est hic ad visum *Constabul.*
franc. pleg. ad presentand. id quod ad officium illud pertinet sed fecit de- *desalt.*
falt. Ideo est in misericordia ii s.

Item, Present. quod R. S. est gustator cervisie, & non est hic *Gustat.*
ad visum franc. pleg. ad presentand. id quod ad officium illud pertinet, *cervisie.*
sed fecit defaltam ideo est in misericordia ii s. *desalt.*

Item, Present. quod R. B. & W. G. sunt communes appreciatores *Communes*
& essent hic ad present. id quod ad officium illud pertinet & fecer. de- *apprec.*
faltam. Ideo ipsi in misericordia iii s. iv d. *desalt.*

Item, Present. quod B. R. & C. D. sunt scrutatores victual. & *Scrutat.*
essent hic ad visum franc. pleg. ad presentand. id quod ad officium illud *victual.*
pertinet & fecer. defalt. Ideo uterque eorum in misericordia ii s. *desalt.*

Item, Present. quod T. J. & W. J. sunt escoratores vicorum. & *Escorator.*
debent esse hic ad visum franc. pleg. & fecerunt defalt. Ideo uterque *vicorum*
eorum in misericordia vi s. *desalt.*

Item, Present. super eorum sacramentum quod vicesimo die Maii *Extrahur.*
anno regni Dom. nostr. Reg. Eliz. nunc vicesimo primo veniebat infra
Dominium illud unus equus coloris (grey) de extrahur. & remanet in
custodia, &c. ad proclamand.

Item, Present. quod est unus pullus coloris (bay) etatis quatuor *Extrahur.*
annorum sive plus qui veniebat infra dominium illud ut extraheretur nono
die Septembris anno Regni dicti. Dom. Reg. vicesimo pretii xxv s. &
remanet in custodia ballivi per spacium unius anni & unius diei post
tres proclamationes per tres sepeal. dies facti. secundum formam Sta-
tuti. Ideo proprietas ejusdem pulli est in domino.

Item, Present. quod W. M. & R. B. sunt communes pistor. hu- *Pistor. mis.*
mani panis & per diversas vices pinsuerunt panem insalubrem, &
fregerunt Assiam. Ideo uterque eorum in misericordia ut paret super
eorum capita.

Bra. mia.

Item, Present. quod R. W. & J. D. sunt communes brachatores cervisia & brachaverunt per diversas vias cervisiam insalubrem & fragerunt ass. Ideo uterque eorum in misericordia prout patet super eorum capita.

Tipul. mia.

Item, Present. quod T. W. & W. C. & eorum uxores sunt communes tipulatores cervisia & per illicitas mensuras vendiderunt cervisiam & fragerunt ass. Ideo uterque eorum in misericordia prout patet super eorum capita.

Pana possit.

Imprimis. Ordinatur. est quod R. B. faciat & eforat fossatum suum apud inferiorem finem de Great Hill continent. per estimationem viginti pertic. citra festum natiuitatis sancti Johannis Baptista prox. futur. sub pana pro qualibet pertica inde viii d.

Pana.

Idem. ordinatur. est quod T. M. reformet & exponat quandam parcel. terre nuper per ill. incrochiati inter Washe Lane & Peckam-Rye Common, ante festum omnium sanctorum prox. futur. sub pana pro qualibet pertica non reformata. atque exposita. x d.

Pana.

Item, ordinatur. est quod nullus permittat averia sua videlicet boves vel vacas suas transire & pascere super communiam hujus Domini. nec in venellis eidem maneria pertinent. absque custodia sub pana forisfacti. Dom. per quemlibet eorum pro quolibet tempore ii d.

Pana.

Item, Ordinatur. est quod W. J. auctoritat. sterquilinum suum jactens per regiam viam adversus domum suam ante fest. Pascha prox. sub pana forisfac. Domino x s.

Pana.

Item, Ordinatur. est quod J. F. faciat & manteneat pontem in clauso suo vocato (Great Colenau) in via adcente de Illington ad Hodgefden sub pana forisfac. Domino x s.

Pana.

Item, Ordinatur. est quod quilibet jugulet vel quod quilibet annulet porcos suos ante festum sancti Michaelis Archangeli proximi & eosdem servaret sic jugulatos sive annulatos. usque festum sancti Johannis Baptista tunc prox. sequen. sub pana forisfac. Domino pro quolibet porco pro quolibet septimana iii s. iv d.

The Oath of the Steward.

YOU shall swear that you well and truly shall serve the Lord of this Manor of S. in the Office of Steward, and truly to see all Plaints, Actions, Process and Matters in the Courts to be holden before the Lord of this Manor, and by you or your sufficient Deputy, according to the Custom and Liberties of the said Manor, to be entred and recorded as they ought to be, after the best of your Cunning, Skill and Power, taking for the same your due Fees; and the Perquisites, Issues, Profits and Amerciaments of the same Courts, you shall justly and truly write, and yearly extract, for the levying and gathering thereof; and you shall truly and diligently do, and accomplish all other Things appertaining to your said Office after the best of your Knowledge, as near as God's Grace shall direct you, *So help you God, &c.*

The Tithingman or Constable's Oath is after the same Manner, but without the Tithingman's name, and he shall attend on the Court when he shall ex-
The Oath of the Bailiff

YOU shall swear, that you shall well and truly serve our Sovereign Lord the King, and the Lord of this Leet, in the Office of Bailiff for this Year ensuing, and shall well and truly collect all Rents, Revenues and other annual Profits, as shall be chargeable, and issuing out to you. And that you shall make and give a lawful Account at the End of the same Year, and in every other Thing appertaining to your Office, well and truly to discharge yourself in your Year ensuing. *So help you God, &c.*

*The old Name of the Bailiff was, which is a word of Law, and in Latin they are called *officiarii*, as it were *Officers*, but in English and appointed to this Office, which do stand upon their Oath, and finally they think in their Conscience the Bailiffs have deceived; so that they may mind such as have deceived.*

The Oath of the Constable.

YOU shall swear, that you well and truly shall serve our Sovereign Lord the King, in the Office of Constableship, and as Constable of this Town of S. for and during the space of one whole Year now next ensuing; you shall endeavour your self to the utmost of your Power, to see the publick Peace kept, and Watch and Ward observed and kept in this Town, as hath been accustomed, and as it ought to be: likewise you shall endeavour your self to learn and understand the Contents of the Statute of *Winchester*, and divers other Laws and Statutes of this Nation made for the Punishment of Rogues, Vagabonds and sturdy Beggars, haunting and resorting within the Precinct of your Office, and present the Offenders accordingly. Also you shall present all such Persons as do or shall play at any unlawful Games, according to the Statute in that Case made and provided. You shall also have Regard for the Maintenance of Artillery within your said Office, and that you shall do and accomplish to the utmost of your Power. *So help you God, &c.*

The Tithingman or Petty Constable's Oath is after the same Manner *mutatis mutandis*; only the Tithingman is sworn to attend on the Constable (if he be required) when he shall execute his Office.

Of the Affeerer and his Oath.

BUT first let us enquire what he is, and from whence his Name is derived. *Minsh.* saith, that *Affeerer* cometh of the old French Word *Affeurer*, which is to *tax* or *fine*, and in Latin they are called *Affidati*, as it were Men put in Trust and appointed to this Office, which do affirm upon their Oaths, what Penalty they think in their Conscience the Offenders have deserved; so that they may mulct such as have committed

ted any Fault, which is arbitrarily punishable, and for which no expreis Penalty is prescribed by Statute. The Oath is as followeth :

You and either of you shall swear, that you will truly and indifferently tax, assess and affect all such Amerciaments as are presented at this Court ; wherein you shall spare no Man for Love, Favour, Affection or Corruption, nor raise nor in-hance upon any Man (of Malice) more grievous Amerciaments than shall be thought reasonable, according to the Quality of their Offence, and Faults committed, and not otherwise. So help you God.

The Oath of the Ale-taster.

YOU shall well and truly swear, that you shall well and truly serve our Sovereign Lord the King, and the Lord of this Leet, in the Office of Ale-taster, or Assizer of this Liberty or Hundred for this Year to come ; you shall duly and truly see from Time to Time, that the Bread to be sold be duly weigh'd, and that the same do contain such Weight, according to the Prices of Wheat, as by the Statute in that Behalf is provided : Likewise you shall have diligent Care, during the Time of your being in Office, to all the Brewers and Tiplers within your Office, that they and every of them, do make good and wholesome Ale and Beer for Man's Body, and that the same be not sold before it be assayed by you, and then to be sold agreeable to the Prices limited and appointed by the Justices of Peace ; and all Faults committed or done by the Bakers, Brewers or Tiplers, or by any of them, you shall make known and present the same at this Court, whereby due and condign Punishment may be inflicted upon them for their Offences accordingly ; and in every other Thing, you shall well and truly behave your self in the said Office for this Year to come. So help you God, &c.

Of the Hayward, Beadle or Greve, and his Oath.

Hayward hath its Derivation from the French Word *Haye*, (i. e.) *sepe*, a Hedge, and *Garde*, (i. e.) *custodia*, a Keeper of the Hedges: With us it signifies one that keepeth the common Herd of the Town; and yet one Part of his Office is to look that they break not the Hedges of the inclosed Grounds. He is called by the Latins *Bedellus*, (i. e.) *oppidi vel civitatis servus*

You shall swear, that you shall well and truly serve our Sovereign Lord the King, &c. and the Lord of this Leet, in the Office of Hayward, Beadle or Greve for this ensuing Year; and you shall duly and truly execute all Amerciaments, and other Procefs to you directed from the Lord or Steward of this Court; and you shall present all Pound-breaches which shall be made within your Office; and also all Chattels, Strays and Waifs, and in every other Thing well and truly hold you in the same Office. *So help you God, &c.*

It is usual with the Lords to grant their Office of Bailiwick (taking good Secu cities) in this Manner.

A Grant of a Bailiwick.

TO all to whom this present Writing shall come: **A. B.** of C. in the County of Y. sendeth greeting. Know ye, that I the said A. B. on the Fidelity, Circumspection and due Diligence of my beloved Servant E. F. to me and my Posterity hereafter to be done and performed, very much relying and confiding, have made, ordained, and by this my present Writing constituted the said E. F. of the Town, Manor or Lordship of S. in the said County of Y. Collector and Receiver of all and singular my Rents, Revenues, Fines, Amerciaments, and Estreats of Court-Leets, or Views of Frankpledge there:

And

And all other Profits by reason of the said Court-Leet, or View of Frankpledge, any Way arising, emergent or coming: To have, hold, exercise and occupy the said Office to the said E. F. by himself so long as he shall well behave himself towards me, and shall a true and just Account of his Receipts make unto me, and the same shall well and truly pay and satisfie. Taking of me for his yearly Wages 5 l. at the Feasts, &c. by equal Portions, by mine own Hands, after his Account and full Payment at every half Year, and the Gifts, Rewards and Emoluments to the same Office due and accustomed: In Testimony whereof, &c.

MANORS

Courts - Baron,

CUSTOMS.

OF

OF THE
 ORIGIN and INSTITUTION
 OF
MANORS
 AND
 Courts - Baron,
 AND OF
CUSTOMS.

CHAP. I.

Of Manors.

Necessity
 of enquire-
 ing into
 the Nature
 and Origin
 of Manors.

A Manor, Court-Baron and Copyhold have such mutual Respect and Reference one to the other, that the Knowledge of the one cannot be attained unto, unless the Sense of the other be truly apprehended; for the Manor is as the Body, and Copyholds certain Members of this Body, and a Court-Baron or Customary incident to both.

The Saxons were unacquainted with these Manors, yet in Effect they had Manors in Circumstance something varying, in Substance surely nothing differing from our Manors at this Day; they wanted neither Demesnes nor Services, the two material Causes of a Manor. Their Demesnes they termed Inlands, because these Lords kept them in their own Hands, and enjoyed them in their own Possessions; their Services they termed Utlands, because those Lands were in the Manurance and Occupation of certain Tenants, who in Consideration of the Profits arising out of those Lands, were bound to perform unto their Lords certain Duties and Services. Their Demesnes were of two Sorts, and their Services likewise were of two Sorts.

The Origin of Manors.

How in the Saxon Time.

One Sort of their Demesnes were termed Bockland, because they passed by Book; and they in Effect differed nothing from our Freehold Lands at this Day.

Bockland.

The other Sort of their Demesnes was termed Folklands, because they passed by Polls, and were claimed and challenged by the Tenants, not by any Assurance in Writings, but only by the Mouth of the People, *per vocem Populi*, and they in Effect differed in nothing from Copyhold-Lands at this Day.

Folklands are the Lands of their People or Slaves.

Touching their Services, one Sort of their Services were *servitia libera*, which consisted most commonly in Render, as to pay yearly such a Rent; or in Ufer, as where the Lord reserved Common for his Cattle; or in Prender, as where the Lord reserved three Shillings, and four Loads of Estovers for Fuel to be taken yearly in his Tenants Grounds.

The Services reserved, *servitia libera* twofold.

The other Sort of Services were *servitia villana*, which consisted altogether in Feasance; as to scour the Lord's Ditches, to tile his Houses, to thatch his Barns, or such like.

Servitia villana.

Did the Lords transfer their Bocklands, that is, their Freehold Lands, they would never reserve villain Services; did they transfer their Folk-Lands, that is, Copyhold Lands, they would never reserve free Services; but still they suited their Services according to the Nature of the Land. The Reason I gather was this: In those Days none but Men of good Account and Reckoning enjoyed the said Bocklands, whereas Folklands were in the Hands of Men of meaner Sort and Condition, and therefore had not the Lord's Care been extraordinary in reserving apt Service, they should have much wronged their Tenants. Thus much Lambard verifieth, saying, *Terra ex scripto fuit hereditaria, libera, atque immunis; terra vero sine scripto officiorum quadam servitute fuit obligata: priorem plerumque nobiles atque ingenui, posteriorem vero rustici fere & pagani possidebant. Lambard termeth the Bocklands terras liberas atque immunes; non quod ab omnibus servitiis fuerunt liberae aut immunes, sed quod tenentes ipsi fuerunt liberi, & servitiis tantum liberis onerati.*

For

The Power
the Lords
originally
had over
the Copy-
holders.

But 'tis
otherwise
at this Day.

For, as I conjecture, in the Saxons Time (sure I am in the Normans Time) those Copyholders were so far subject to the Lord's Will, that *eorum tenentes tampestive & intempestive pro voluntate Domini possent resumere & revocari*; but this is now otherwise; and if the Copyholder perform his Services, the Lord cannot eject him lawfully; and if he do, the Copyholder may have Redress by Action of Trespass at Common Law, or a Bill in Equity. *Coke's Compleat Copyholder, Sect. 1, 2, 3, 4, 5, 6, 7, 8.*

But to come nearer our own Times, leaving the curious Reader to consult Sir Henry Spelman's Treatise of Tenures, we may here observe the Origin of these Tenures amongst our Norman Ancestors, which cannot be better express'd than they are by Lord Bacon in the following Terms.

The Reason why all Land is holden of the Crown immediately, or by mesne Lords, is this,

The Origin
of Manors,
as we see
them now
amongst
the Nor-
mans.

The Conqueror got by Right of Conquest all the Land of the Realm in his own Hands in Demesne, taking from every Man all Estate, Tenure, Property and Liberty of the same, (except Religious and Church-Lands, and the Lands in Kent) and still as he gave any of it out of his own Hands, he reserved some Retribution of Rents or Services, or both, to him and his Heirs, which Reservations are what is called the Tenure of Lands, in which Reservation he hath four Institutions exceeding politick, and suiting the State of a Conqueror.

First, Finding his People to be Part Normans, and Part Saxons, he bent himself to conjoin them by Marriages in Amity, and for that Purpose ordained, That if those of his Nobles, Knights and Gentlemen to whom he gave great Rewards of Lands, should die, leaving their Heirs within Age, a Male within twenty one, and a Female within fourteen Years, and unmarried, then the King should have the bestowing such Heirs in Marriage, in such a Family, and to such Persons as to him should seem meet.

The second was, to the End that his People should be preserved in Warlike Exercises, and able for his Defence; when therefore he gave any good Portion of Lands, that might make the Parties of Ability or Strength, he withal reserved this Service, that that Party and his Heirs having such Lands, should keep a Horse of Service continually, and serve upon him himself when the King went to the Wars; or else having Impediment to excuse his own Person, should find another to serve in his Place; which Service of Horse and Man was a Part of that Tenure called Knight-service.

But if the Tenant himself were an Infant, the King was to hold this Land himself until he came unto full Age, finding him Meat, Drink, Apparel, and other Necessaries, and finding a Horse and Man with the Overplus to serve in the Wars; as the Tenant himself should do if he were at full Age.

But if this Inheritance descend upon a Woman that cannot serve by her Sex, then the King is not to have the Lands, she being of fourteen Years of Age, because she is then able to have a Husband that may do the Service in Person.

The third Institution was, That upon every Gift of Land the King reserved a Vow and an Oath to bind the Party to his Faith and Loyalty. That Vow was called Homage; the Oath, Fealty; Homage is to be done kneeling, holding his Hands between the Knees of the Lord, saying in the French Tongue, *I become your Man of Life and Limb, and of earthly Honour*. Fealty is to take an Oath upon Book that he will be a faithful Tenant to the King, and do his Service, and pay his Rents according to his Tenure.

The fourth Institution was, That for recognizing of the King's County, by every Heir succeeding his Ancestor in those Knight-service Lands, the King should have primer Seisin of the Lands, which is one Year's Profit of the Lands; and until this be paid, the King is to have Possession of the Land, and then to restore it to the Heir, which was the very Cause of suing Livery, and that as well where the Heir hath been in Ward as otherwise.

These before-mentioned are the Rights of the Tenure called Knight-service; the Conqueror instituted other Tenures *in capite* necessary to his Estate; as namely, he gave divers Lands to be holden of him by some special Service about his Person, or by bearing some special Office in his House, or in the Field, which have Knight-service, and more in them, and these are called Tenures by Grand Serjeanty. Also he provided upon the first Gift of Lands to have Revenues by continual Service of plowing his Land, repairing his Houses, Parks, Pales, Castles, and the like; and sometimes too a yearly Provision of Gloves, Spurs, Hawks, Horses, Hounds, and the like, which kind of Reservations are called also Tenures in Chief or *in Capite* of the King; but they are not by Knight-service, because they require no personal Service, but such Things as the Tenant may hire another to do, or provide for his Money. And this Tenure is called Tenure by Socage *in Capite*, the Word *Socagium* signifying a Plough; and what Lands were *antiquo Dominico Corone*, appeareth in the Records of the Exchequer, called the Books of Domesday. And the Tenants by ancient Demesne have many Immunities and Privileges at this Day that in ancient Times were granted unto those Tenants by the Crown, the Particulars whereof are too long to set down.

These Tenures *in Capite*, as well that by Socage, as the other by Knight-service, have this Property, that the Tenant cannot alien his Land without Licence of the King; if he do, the King is to have a Fine for the Contempt, and may seize the Land, and retain it till the Fine be paid. And the Reason is,

because the King would have a Liberty in the Choice of his Tenant, so that no Man should presume to enter into those Lands, and hold them (for which the King was to have those special Services done him) without the King's Leave; this Licence and Fine, as it is now digested, is easie and of Course.

By Example and Resemblance of the King's Policy in these Institutions of Tenures, the great Men and Gentlemen of this Realm did the like as near as they could; as for Example, when the King had given to them 2000 Acres of Land, this Party proposing in this Place to make his Dwelling, or (as the old Word is) a Mansion, or his Manor-house, did devise how he might make his Land a compleat Habitation to supply him with all Manner of Necessaries, and for that Purpose he would give of the uttermost Parts of those 2000 Acres, one hundred or two hundred Acres, or more or less, as he should think meet, to one of his most trusty Servants, with some Reservation of Rent to find a Horse for the Wars, and go with him when he went with the King to Wars, adding Vow of Homage and the Oath of Fealty, Wardship, Marriage and Relief. This Relief is to pay five Pounds for every Knight's Fee; or after that Rate, for more or less, at the Entrance of every Heir; which Tenant so created and placed, was called Tenant by Knight-service, and not by his own Person; but of his Manors, of those he might make as many as he would. Then this Lord would provide that the Land which he was to keep for his own Use, should be plowed, and his Harvest should be brought Home, or his House repaired, his Park, paid, and the like; and for that End he would give some lesser Parcels to sundry others, of twenty, thirty, forty or fifty Acres, reserving the Service of plowing a Quantity, or so many Days, of his Land, and certain Harvest Works or Days in the Harvest, or Labour, or to repair the House, Park, Pales, or otherwise, or to give him for his Provision, Capons, Hens, Pepper, Cummin, Roses, Gilliflowers, Spurs, Gloves, or the like, or to pay him a certain Rent, and to be sworn to be his faithful Tenant, which Tenure was called a Socage-Tenure, and is to this Day; howbeit most of the plowing and Harvest Services are turned into Rents. The Tenants in Socage at the Death of every Tenant were to pay Relief, which was not as Knight-service is, five Pounds a Knight's Fee; but it was and so is still, one Year's Rent of the Land, and no Wardship or other Profit to the Lord. The Remainder of the two thousand Acres to be kept to himself, which he used to manure by his Bondmen, and appointed them at the Court of his Manor how they should hold it, making an Entry of his into the Rolls of the Remembrances of the Acts of his Court; yet still in the Lord's Power to take it away. And therefore they were called Tenants at Will by Copy of Court-Roll, being in truth Bondmen at the Beginning, but having obtained

obtained Freedom of their Persons, and gained a Custom by Use of occupying their Lands, they now are called Copyholders, and are so privileged, that the Lord cannot put them out; and although by Custom some Copyholds are for Lives, one, two or three successively, and some Inheritances from Heir to Heir by Custom; and Custom ruleth these Estates wholly both for Widows Estates, Fines, Heriots, Forfeitures, and all other Things.

Manors being in this Sort made at the first, Reason was that the Lord of the Manor should hold a Court, which is no more than to assemble his Tenants together at a Time by him to be appointed, in which Court he was to be informed by Oath of his Tenants, of all such Duties, Rents, Reliefs, Wardships, Copyholds, or the like, that had happened unto him, which Information is called a Presentment, and then his Bailiff to seize and distrain for those Duties, if they were denied or with-holden, which is called a Court-Baron; and herein a Man may sue for any Debt or Trespas under forty Shillings Value, and the Freeholders are to judge of the Cause upon Proof produced on both Sides, and therefore the Freeholders of these Manors, as incident to their Tenures, do hold by Suit of Court, which is to come to the Court, and then to judge between Party and Party in those Party-Actions, and also to inform the Lord of Duties, Rents and Services unpaid to him from his Tenants. By this Course it is discerned who are the Lords of Lands, such as if the Tenant dies without Heir, or be attainted of Felony or Treason, shall have the Land by Escheat.

All the military Tenures and Homage being now taken away *per 12 Car. 2.* they will not be the farther Subject of our Enquiry here.

This Origin of Mauors will in some Measure determine our Judgment as to the Derivation of the Word, and it visibly best agreeing with the Opinion of those who derive it from the French Word *Manoir* (i. e.) a Mansion; tho' at this Day few living and residing continually (as they did in ancient Times) on their Estates, it seems rather to denote the Jurisdiction and Royalty than the Land or Seat.

Coke in his *Compleat Copyholder*, p. 52. & 56. divides the Causes (as he phrases it) of a Manor into two, viz. the efficient Cause, and the *Causa sine qua non*; he says, this is a Court-Baron, and that this no sooner fails, but the Manor falls to the Ground.

The efficient Cause, he says, is Custom; for a Manor must be by Prescription, and the Services by Continuance Time out of Mind, and therefore a Manor cannot be created at this Day by the King's Patent, it being an Hereditament consisting of many real Things and incorporated together, before Time of Memory; then *a multo fortiori*, a Subject cannot create one;

Necessity
of treating
of Customs.

yet may he in some Sort enlarge a Manor by adding some Services unto it. 9 *Ass. pl.* 24. and *Br. tit. Tenure*, 26.

All Manors and Courts-Baron then arising thus, and the Rights and Duties of the several Members thereof depending on Customs, as well as the Grant and Contract betwixt the Lord and his Tenant, the Nature, Force and Extent thereof must be here considered.

Customs are defined to be a Law or Right not written, which being established by long Use, and the Consent of our Ancestors, hath been and is daily practised.

Custom,
Prescription
and
Usage, how
they differ.

Custom, Prescription and Usage, howsoever there be Correspondency amongst them, and Dependency one on the other, and in common Speech one of them is taken for another, yet they are three distinct Things: Custom and Prescription differ in this. 1. Custom cannot have any Commencement since the Memory of Man, but a Prescription may, both by the Common Law and the Civil: And therefore where the Statute of 1 H. 8. saith, That all Actions popular must be brought within three Years after the Offence committed; whosoever offendeth against this Statute, and doth escape uncalled for three Years, he may be justly said to prescribe an Immunity against any such Action. 2. A Custom toucheth many Men in general; Prescription this or that Man in particular: and that is the Reason why Prescription is personal, and is always made in the Name of some Person certain, and his Ancestors, or those whose Estate he hath; but a Custom having no Person certain in whose Name to prescribe, is therefore called and alledged after this Manner, In such a Borough, in such a Manor, there is this or that Custom. And for Usage, this is the efficient Cause, or rather the Life, of both; for Custom and Prescription lose their Being, if Usage fail.

Customs are either general or particular. General, which are Part of the Common Law, being current thro' the whole Commonwealth, and used in every County, every City, every Town, and every Manor. Particular, which are confined to shorter Bounds and Limits, and have not such Choice of Fields to walk in as general Customs have. These particular Customs are of two Sorts; either disallowing what general Customs do allow, or allowing what general Customs do disallow. As for Example-sake; by the general Customs of Manors it is in the Copyholder's Power to sell to whom he pleaseth; but by a particular Custom used in some Places, the Copyholder, before he can inforce his Lord to admit any one to his Copyhold, is to make a Profer to the next of the Blood, or to the next of his Neighbours *ab orichte Solis*, who, giving as much as the Party to whom the Surrender was made, should have it; so on the other Side, by the general Custom of Manors, the passing away of Copyhold Land by Deed for more than

than for one Year without Licence is not warranted; yet some particular Customs in some Manors do it. So by the general Customs of Manors, Presentments, or any other Act done in the Leet, after the Month expired, contrary to the Statute of *Magna Charta* and 31 E. 3. are void; yet by some particular Customs such Acts are good.

The Way how to examine the Validity of a Custom. For our Direction in this Business, we shall do well to observe these six Rules, which will serve us for exact Trial. 1. Customs and Prescriptions ought to be reasonable; and therefore a Custom that no Tenant of the Manor shall put in his Cattle to use his Common in *campus seminatus*, after the Corn severed, until the Lord have put in his Cattle, is a void Custom, because unreasonable: For peradventure the Lord will never put in his Cattle, and then the Tenants shall lose their Profits. So if the Lord will prescribe that he hath such a Custom within his Manor, that if any Man's Beasts be taken by him upon his Demesnes Damage Beasant, that he may detain them until the Owners of the Beasts give him such Recompence for his Harms as he himself shall request; this is an unreasonable Custom; for no Man ought to be his own Judge. 2. Customs and Prescriptions ought to be according to common Right; and therefore if the Lord will prescribe to have of every Copyholder belonging to his Manor for every Court he keepeth a certain Sum of Money, this is a void Prescription, because it is not according to common Right; for he ought for Justice-sake to do it *gratis*. But if the Lord prescribe to have a certain Fee of his Tenants for keeping an extraordinary Court, which is purchased only for the Benefit of some particular Tenants, to take up their Copyholds and such like; this is a good Prescription, and according to common Right. 3. They ought to be upon good Consideration; and therefore if the Lord will prescribe, that whosoever passeth through the King's Highway, which lieth through his Manor, should pay him a Penny for passing; this Prescription is void, because it is not upon a good Consideration. But if he will prescribe to have a Penny of every one that passeth over such a Bridge within his Manor, which Bridge the Lord doth use to repair, this is a good Prescription, and upon a good Consideration. So if the Lord will prescribe to have a Fine at the Marriage of his Copyholder, in which Manor the Custom doth admit the Husband to be Tenant by the Curtesie, or the Feme Tenant in Dower of a Copyhold; this Prescription is good, and upon a good Consideration. But in such Manors where these Estates are not allowed, the Law is otherwise. 4. They ought to be compulsory; and therefore if the Lord will prescribe that every Copyholder ought to give him so much every Month to bear his Charges in Time of War, this Prescription is void. But to prescribe they ought to pay so much Money

for that Purpose, is a good Prescription. For a Payment is compulsory, but a Gift is arbitrary, at the voluntary Liberty of the Giver. 5 They ought to be certain; and therefore if the Lord will prescribe, that whensoever any of his Copyholders die without Heir, that then another of the Copyholders shall hold the same Lands for the Year following; this Prescription is void for the Incertainty. But if the Lord will prescribe to have of his Copyholders 2 *d.* an Acre Rent; this Prescription is certain enough. 6 They ought to be beneficial to them that alledge the Prescription; and therefore if the Lord prescribeth that the Custom hath always been within the Manor, that what Distress soever is taken within his Manor for any common Person's Cause, is to be impounded for a certain Time within his Pound; this is no good Prescription, for the Lord is hereby to receive a Charge and no Commodity. But if the Prescription goeth farther, that the Lord should have for every Beast so impounded a certain Sum of Money, this is a good Prescription. 1 Things gained by Matter of Record only cannot be challenged by Prescription; and therefore no Lord of a Manor can prescribe to have Feudal Goods, Fugitives Goods, Deodands, and such like; because they cannot be forfeited until it appear of Record; but Waifs, Estrays, Wrecks, and such like, may be challenged by Prescription, because they are gained by Usage without Matter of Record. 2 A Custom never extendeth to a Thing newly created; and therefore if a Rent be granted out of Gavelkind Land, or Land in Borough *English*, the Rent shall descend according to the Course of the Common Law, not according to the Custom. If before the Statute of 32 H. 8. Lands were deviseable in any Borough or City by special Custom, a Rent granted out of these Lands was not deviseable by the same Custom: For what Things soever have their Beginning since the Memory of Man, Custom maintains not.

But these Customs have this strict Construction, because they tend to the Derogation of the Common Law; yet they are not to be confined to literal Interpretation: For if there be a Custom within any Manor, that Copyhold Lands may be granted *in feodo simplici*, by the same Custom they are grantable to one and the Heirs of his Body, for Life, for Years, or any other Estate whatsoever; because, *Cui licet quod majus, non debet quod minus est non licere*. So if there be a Custom that Copyhold Lands may be granted for Life; by the same Custom they may be granted *durante viduitate*, but not *e converso*, because an Estate during Widowhood is less than an Estate for Life.

1. To prescribe in his Predecessors, as in himself, and all those whose Estate he hath.

2. To prescribe generally, not tying his Prescription to Place or Person; as where a Chief Justice prescribeth, that it hath been used that every Chief Justice may grant Offices; or where a Serjeant prescribeth, *Quod talis habetur consuetudo*, that Serjeants ought to be impleaded by original Writ, and not by Bill.

3. To prescribe in a Place certain.

4. To prescribe in the Name of another.

The first Sort of these Prescriptions a Copyholder cannot use, in Regard of the Imbecillity of his Estate: For no Man can prescribe in that Manner but only Tenants in Fee-simple at the Common Law.

The second Sort of these may be used sometimes by Copyholders in the pleading of a general Custom; but in alledging of a particular Custom a Copyholder is driven to one of the last, and, as Occasion serveth, he useth sometimes the one, sometimes the other. If he be to claim Common or other Profit in the Soil of the Lord, then he cannot prescribe in the Name of the Lord; for the Lord cannot prescribe to have Common or other Profit in his own Soil: But then the Copyholder must of Necessity prescribe in a Place certain, and alledge that within such a Manor there is such a Custom, that all the Tenants within that Manor have used to have Common in such a Place, Parcel of the Manor. But if he be to claim Common or other Profit in the Soil of a Stranger, then he ought to prescribe in the Name of his Lord, saying that the Lord of the Manor, and all his Ancestors, and all those whose Estate he hath, were wont to have a Common in such a Place for himself and his Tenants at Will, &c. *Coke's Compleat Copyholder*, 72.

CHAP. II.

Of Copyhold.

ALL the Law concerning Copyholds is either concerning the Thing demised by Copy, the Parties, or their Rights; we will therefore divide this Chapter into four Sections. In the two first we will consider what may be let by Copy, by and to whom; in the third, the Rights of the Lord and Duty of the Tenant; in the fourth and last, the Rights of the Tenants and Engagement of the Lord.

SECTION I.

What grantable by Copy, and of the Nature of such Estates.

What
grantable
by Copy.

Things that lie not in Tenure are not grantable by Copy; as Rents, Bailiwicks, Stewardships, Common in Gross, Advowsons in Gross, and such like; all which are incorporeal Hereditaments, and therefore no Rent can issue out of them, neither can they be held by any Manner of Service. But an Advowson appendant, a Common appendant, or a Fair appendant may pass by Copy, by reason of the principal Thing to which they are appendant; and generally what Things soever are Parcel of the Manor, and are of Perpetuity, may be granted by Copy, according to the Custom; as Underwoods growing upon the Manor, being Things of Continuance, (for after they are cut they will grow again *ex stipitibus*) may well be granted by Copy; and so of Herbage or any other Profit of the Manor. A Mill, and generally any Thing that concerns Land may be granted by Copy of Court-Roll. *Co. Litt. 58. 4 Co. 31. 4 Leon. 241. Sc. Coke's Compleat Copyholder 116.*

Things
once le-
ver'd are
not.

Wheresoever a Copyhold is become not demisable by Copy, either by the Act of the Lord, by the Act of the Law, or by the Act of the Copyholder himself, it is extinguished for ever, and is no more grantable by Copy.

Severance
by Act of
the Lord.

By the Act of the Lord: As if a Copyholder escheateth, and the Lord granteth away any Estate by Deed, this is an Extinguishment. So if he maketh a Feoffment upon Condition, and then entereth for Breach of the Condition; yet the Copyhold is extinguished, because once not demisable.

But if the Lord keepeth the Copyhold Lands for never so many Years, or granteth at Will; this destroys not the Copyhold, because it continueth ever demisable by Copy.

By Act of
Law.

By the Act of the Law; As if the Copyhold escheated be extended upon a Statute or Recognizance acknowledged by the Lord; or if the Feme of the Lord hath this Land assigned unto her for her Dower; although these Impediments be by the Act of the Law, yet because they are lawful, the Land can never after be granted by Copy.

Of the Co-
pyholder.

By the Act of the Copyholder himself: As if he accepteth a Lease for Years at the Common Law, either mediate or immediate from the Lord of the Copyhold; this is an absolute Extinguishment,

But

But if he accepteth a Lease for Years of the Manor, the Copyhold by this hath not Continuance ; but this is no Extinguishment, because the Land continueth still grantable by Copy.

If a Copyholder with Licence make a Lease for Years to a Stranger, or without Licence maketh a Lease for Years to the Lord ; the Copyhold is not hereby extinguished, and yet it is not demisable by Copy.

So if a Copyholder intermarrieth with a Feme Seignioress, this is a Suspension only of the Copyhold, no Extinguishment.

So if the Interruption be tortious, as the Lord be disseised, and this Disseisor dieth seised ; or if the Land be recovered by false Verdict, or erroneous Judgment, and after the Land is re-continued ; it is not extinguished, but may be granted arere by Copy : For *Non valet impedimentum quod de jure non sortitur effectum ; & quod contra legem fit, pro infecto habetur, Coke's Copyholder 170.*

SECT. II.

Of the Lord and Tenant, who may not make voluntary Grants of Copyholds, and to whom ; and of Surrenders and Admissions.

IN voluntary Grants made by the Lord himself the Law neither respecteth the Quality of his Person, nor the Quantity of his Estate : For be he an Infant, and so thro' the Tenderness of his Age insufficient to dispose of any Land at the Common Law ; or *non compos mentis*, an Idiot, or a Lunatick, and so for Want of common Reason unable to traffick in the World ; or an Outlaw in any personal Action, and so excluded from the Protection of the Law ; or an Excommunicate, &c. and so restrained *ab omnium fidelium communione*, or at least a *Sacramentorum participatione* : notwithstanding these Infirmities and Disabilities, yet he is capable enough to make a voluntary Grant by Copy. For if a Feme Seignioress take Baron, and they two join in a voluntary Grant by Copy, this shall ever bind the Feme and her Heirs, and yet she is not *sui juris*, but *sub potestate viri* ; because the Custom of the Manor is the chief Basis upon which stands the whole Fabrick of the Copyhold Estate.

As to personal Defects in voluntary Grants.

The Quantity of the Lord's Estate is no more respected than the Quality of his Person : For if his Interest be lawful, be his Estate never so great or never so little, 'tis not material : For be it in Fee, or be it in Tail or Dower, or as Te-

As to the Quantity of his Estate, if rightfol-

nant

nant by Curtesie, for Life, or for Years, as Guardian, or as Tenant by Statute, or as Tenant by *Elegit*, or at Will; the least of these Estates is a sufficient Warrant to the Lord to grant any Copyhold escheated unto him, for as long Time as the Custom doth allow, the ancient Rents and Services being truly reserved; and these Grants shall ever bind them that have the Inheritance or Frank-tenement of the Manor, as well as for Offices granted for Life by the Chief Justice of the Common Pleas, whose Office is but at Will, shall ever conclude the succeeding Justice. The Reason of the Law is this. A Copyholder upon voluntary Grants made by Copy, doth not derive his Estate out of the Lord's Estate only; for then the Copyholder's Estate should cease when the Lord's Interest determineth; *Nam cessante primitivo, cessat derivativus*: But the Life of the Copyholder's Estate is the Custom of the Manor; and therefore whatsoever befalleth the Lord's Interest in his Manor, be it determined by the Course of Time, by Death, by Forfeiture, or other Means; yet if the Lord were *legitimus Dominus pro tempore*, how small soever his Estate was, that is enough. *Coke's Compleat Copyholder* 80. Co. Litt. 58. Mo. 147, & 236. 4 Co. 23. March 6. Cro. Eliz. 66. Cro. Jac. 55. & 9. God. 143. *Guthorp's Readings* 48.

Where an
Executor
may.

Grants made by Executors, to whom one devises a Manor, that his Executors shall grant Copies for the Payment of his Debts; yet the Executor, though he hath no Estate in the Manor, may make Grants. Co. Litt. 58, *Coke's Copyholder* 88. See 4 Co. 23 & 24. Cro. Jac. 99.

And so if an Infant infeoff me of a Manor, though he may enter upon me at his Pleasure; yet Grants made by me by Copy before his Entry shall never be defeated by any subsequent Entry.

And the same Law is of Grants made by a Villain Purchaser of a Manor, before the Entry of the Lord; or of Grants made after an Alienation in Mortmain, before the Lord paramount hath entred for a Forfeiture.

If a Lease be made for Years of a Manor, the Lease to be void upon Breach of a certain Condition, if the Condition be broken, and afterwards the Lessee before the Entry of the Lessor granteth Estates by Copy, these Grants shall never exclude the Lessor; for presently upon the Breach of the Condition, the Lease is void: But had the Manor been granted for Life, in Tail, or in Fee, I think the Law would have fallen out otherwise; for before Entry the Frank-tenement had not been avoided.

Grants by
a Lord by
Wrong,
void a-
gainst him
that hath
the Right.

If a Disseisor of a Manor dieth seised, notwithstanding his Heir come in by ordinary Course of Descent, yet because the Tort commenced by his Ancestor is still inherent to his Estate, if any Copyhold Estate be granted by the Heir, it may be avoided by the Disseisor immediately upon his Recovery, or upon

upon his Entry : And so if the Disseisor infeoff a Stranger to the Manor, notwithstanding the Feoffee come in by Title, yet no Grant made by him of Copyhold Land shall ever bind the Disseised, no more than a Grant made by the Disseisor himself.

If Tenant in Tail of a Manor discontinueth and dieth, and after the Discontinuance granteth Copyhold Estates; the Heir recovering in a Formedon in the Discender, may avoid these Grants : For though the Discontinuee come in under a just Title, yet his Interest being determined by the Death of the Tenant in Tail, the Continuance of the Possession is a Tort to the Heir, and Acts done by Tort-feasors, tending to the Disinheritance of the right Owners, Custom will never so strengthen, but they may be adnihilated. So if a Man seised of a Manor in Right of his Wife alieneth this Manor, and dieth; any Grant made of Copyhold Estates after his Death may be avoided by the Feme upon her Entry, or upon her Recovery in a *Cui in vita*.

If a Manor be granted *pur auter vie*, and *Cestuy que vie* dieth, and the Grantee continueth still in the Manor, and maketh Grants by Copy, these shall not bind the Grantor of the Manor; for immediately upon the Death of *Cestuy que vie* the Grantee was but a Tenant at Sufferance, and had no Manner of lawful Interest; for a Writ of Entry *ad terminum qui præterit* lieth against him, as against a Desorcor.

And so if a Tenant for Life of a Manor maketh a Lease for Years of the same Manor, and dieth; Copyhold Estates granted by the Lessee after the Death of the Tenant for Life are voidable by the first Lessor.

If a Lessee for Years of a Manor granteth a Copyhold in Reversion, and before the Reversion eschue, the Term is expired, the Grant is void.

If a Manor be granted upon Condition, and before the Condition is broken the Land is granted by Copy, then the Manor becomes forfeited, and the Feoffor entreth; yet the Copyhold Estate remaineth untouched, because lawfully established by Custom.

If a Man seised of a Manor in Fee dieth seised, having Issue a Daughter, and his Wife being *privement ensint* with a Son, the Daughter granteth Lands by Copy; this Grant shall stand good against the Son, for the Daughter was *legitima Domina pro tempore*. So if the Feoffee of a Manor, upon Condition to infeoff a Stranger the next Day maketh a voluntary Grant by Copy; this shall bind, and yet his Interest was to have but small Continuance. If a Manor be granted with a Feme in Frank-marriage, and there is a Divorce had *causa præcontractum*, so that now the Interest of the Manor is granted to the Feme only, and by Relation the Marriage is void *ab initio*; yet because the Baron was *legitimus Dominus pro tempore*,
any

any Copyholders Estates granted before the Divorce remain good. So if a Man espouseth a Feme Seignioresse under the Age of Consent, and after she doth disagree; though the Marriage by Relation was void *ab initio*, yet Copyholds granted before Disagreement shall never be avoided. *Coke's Copyholder* 86, &c. See *Co. Litt.* 58. *Owen* 27. 2 *Leon.* 45. *Poph.* 71.

Of Grants
of Copy-
holds out
of the
Manor.

That a Lord may grant a Copyhold out of his Manor is undoubted, but whether the Steward of a Manor may, I find it a Question not well settled in our Books, unless it be where a Lord seised of two or more contiguous Manors, has Time out of Mind kept one Court for both, in which 'tis beyond Doubt he may; for though there is but one Court, yet they are in the Nature of two. 4 *Co.* 26, 27. *W. Jo.* 342.

Of the
Grantee of
a Copy-
hold.

The same Persons that are capable of a Grant by the Common Law, are capable of a Grant by Copy, according to the Custom of the Manor,

An Infant, a Man *non sana Memoria*, an Idiot, a Lunatick, an Outlaw, or an Excommunicate, may be Grantees of a Copyhold Estate.

The Lord himself may take a Copyhold to his own Use. One Joint-tenant may receive a Copyhold from the Hands of his Joint-companion, because it passeth by Surrender, not by Livery.

A Feme Covert may be a Purchaser of Copyhold, and this Purchase shall stand in Force until her Husband disagreeeth. Nay, farther, a Feme Covert may receive a Copyhold Estate by Surrender from her Husband, because she cometh not in immediately by him, but by mediate Means, *viz.* by the Admittance of the Lord according to the Surrender.

What Per-
son is suf-
ficient to
be a Copy-
holder.
Dyer Eliz.
301.

That Person is sufficient to be a Copyholder, who is of himself able, or by another, to do the Service of a Copyholder; as an Infant may be a Copyholder; for his Guardian and *prochein amie* may do the Service: But a Lunatick or Idiot cannot be a Copyholder, because they cannot do the Service themselves, nor depute any other, and the Lord shall retain the Copyhold of an Idiot. *Calthrop fol.* 52. Nor a Man cannot be a Copyholder unto a Manor whereof he himself is Lord, although he be but *Dominus pro tempore annorum*, or *in jure uxoris*. *Ibid.*

What Persons soever are capable of a Grant by Copy, may well take by Attorney; not that the Lord shall be enforced to admit any one by Attorney, because upon every Admittance there is Fealty due by the Party admitted, which is a Duty so inseparably annexed to the Persons, that it cannot be discharged by Deputy, and therefore no Reason the Lord should be enforced to admit by Attorney; but if he will admit him, it standeth good. *Coke's Copyholder* 86. 35.

Where the Lord is seised of a Copyhold, it passes out of him by Grant, as we have seen; but where one that is not Lord would transfer his Estate to another, it must be by a Surrender

der of the Copyholders, and Admission of the Lord, of which we now proceed according to the Rules of Method to treat.

This Word *Surrender* is *vocabulum artis*; and therefore where a Surrender is needful, if this one Word be wanting, all other Words used in ordinary Conveyances are uneffectual and insufficient to convey any Copyhold Estate; for if a Copyholder come into Court, and offer to pass his Copyhold by Words of Grant, of Gift, of Bargain or Sale, or such like, I doubt he will fail of his Purpose; for as he is tied to a singular Form of Assurance, so is he restrained to peculiar Words in his Assurance.

No Word sufficient to convey a Copyhold Estate but the Word *Surrender*.

If a Copyholder will surrender to the Use of the Lord, the Interest of the Copyhold is sufficiently vested in the Lord immediately upon the Surrender, without any Admittance of the Lord, because the Lord cannot admit himself.

So here the Estate passes only by a Surrender.

If the Lord will make a voluntary Grant of a Copyhold, no Surrender is requisite; for by the Admittance of the Lord according to the Custom the Copyholder is sufficiently settled in his Land without any other Ceremony.

If a Copyholder will surrender in Court to the Use of a Stranger, besides the Surrender the Admittance is requisite; and if the Surrender be made out of Court into the Hands of the Lord himself, which the general Custom will warrant, or into the Hands of the Bailiff or of two Tenants of the Manor, which by special Custom only is warrantable; besides a Surrender, two other Ceremonies are requisite, the one a true Presentment of the Surrender in Court by the same Persons into whose Hands the Surrender was made; the other is an Admittance of the Lord according to the Effect and Tenor both of the Surrender and Presentment.

Where Admittance is necessary.

Where a Presentment.

A Surrender (where by a subsequent Admittance the Grant is to receive its Perfection and Confirmation) is rather a manifesting of the Grantor's Intention, than of passing away any Interest in the Possession; for till Admittance the Lord taketh Notice of the Grantor as Tenant, and he shall receive the Profits of the Land to his own Use, and shall discharge all Services to the Lord; but yet the Interest is in him but *secundum quid*, and not absolutely; for he cannot pass away the Land to any other, or make it subject to any other Incumbrance than it was subject to at the Time of the Surrender: Neither in the Grantee is any manner of Interest invested before Admittance; for if he enter he is a Trespasser, and punishable in Trespass; and if he surrender to the Use of another, this Surrender is merely void, and by no Matter *ex post facto* can be confirmed.

How it operates before Admittance.

A Copyhold Interest cannot be transferred by any other Assurance than by Copy of Court-Roll, according to the Custom.

Copyhold is transferrable only by Surrender.

If I will exchange a Copyhold with another, I cannot do it by an ordinary Exchange at the Common Law, but we must surrender to each other's Use, and the Lord admits us accordingly.

If I will devise a Copyhold, I cannot do it by Will at the Common Law, but I must surrender to the Use of my last Will and Testament, and in my Will I must declare my Intent.

If I am ousted by a Copyholder, a Release made to him is void, because it would be a Prejudice to the Lord; and besides there is no customary Right upon which the Release may inure: But a Release inuring by the Way of extinguishing, where no Prejudice accrue to the Lord, will serve to drown a Copyhold Right; and therefore if I surrender out of Court upon Condition to the Use of *7 s.* and the Presentment is made absolute in Court, and the Admittance framed accordingly, this Admittance and Presentment differing from the Effect of the Surrender are both void. Yet because upon the Admittance the Lord is satisfied of his Fine, and so nothing at all prejudiced, and besides here is a customary Right upon which the Release may be grounded; I may by a Release at the Common Law sufficiently confirm this void Estate. And so upon the same Reason, if I am ousted of a Copyhold, and the Lord admit him according to the Custom, a Release made by me at the Common Law will extinguish my Right. See *Hutt. 65. 4 Co. 25.*

But in
some Cases
a Release
may operate.

Who may
surrender a
Copyhold.

In Grants made by Copyholders, as the Law respecteth the Quality of the Copyholder's Estate; so doth it respect both the Quality of his Person, and Quantity of his Estate.

The Quality of his Person: For whosoever is incapable of disposing of Land at the Common Law, cannot without special Custom pass away any Copyhold.

If a Copyholder for Life, the Remainder over in Fee to a Stranger, surrendreth in Fee, and the Lord admits accordingly; yet an Estate for Life only passeth.

If a Man hath a bare Authority joined with a Confidence without Interest, this Authority cannot be executed by Attorney: And therefore if I devise that my Executors shall sell my Land, they cannot sell by Attorney, for that were to make an Attorney upon an Attorney, which the Law will in no wise permit. And though a Man have not an Authority joined with an Interest, yet if the Authority be warranted by special Custom only, it cannot be executed by an Attorney: And therefore if there be a special Custom, that a Copyholder for Life may make Estate for twenty Years to continue after his Death, these Estates cannot be made by Attorney. So if there be a special Custom, that an Infant at the Age of Discretion may surrender a Copyhold; this Surrender, being

correct

confirmed by special Custom only, cannot be made by Attorney. And so if there be a Custom, that a Copyholder out of the Court may surrender into the Hands of the Lord by the Hands of two customary Tenants, such Surrenders must be done in Person.

But wheresoever there is a general Authority accompanied with an Interest, that Authority may be executed by Attorney.

It is not necessary, that upon Surrenders of Copyholds, the Name of the Party to whose Use the Surrender is made be precisely set down; but if by any Manner of Circumstance the Grantee may be certainly known, it is sufficient. And therefore a Surrender made to the Lord Archbishop of *Canterbury*, or the Lord Mayor of *London*, or the High Sheriff of *Norfolk*, without mentioning either their Christian Name or Surname, are good enough, and certain enough, because they are certainly known by this Name, without farther Addition. So if I surrender to the Use of the next of my Blood, to the Use of my Wife, to the Use of my Brother or Sister; having but one Brother or one Sister; these Surrenders are good without any Additions, because the Grantee may certainly be known by these Words.

By what Name the Grant of a Copyhold may be made.

If I surrender generally into the Hands of the Lord, not expressing to whose Use the Surrender shall be; this Surrender is a good Surrender, and shall enure to the Benefit of the Lord.

If I surrender to the Use of my Son *W.* having more Sons than one of that Name; yet by an Averment this Uncertainty may be helped.

But if I surrender to the Use of my Cousin, or my Friend; this is so general and so uncertain, that no subsequent Manifestation of my Intention can any way strengthen it.

So if three surrender to the Use of three or four of *St. Dunstan's* Parish, not naming the Parishioners by their Names; this Surrender is utterly void.

And so if I surrender in the Disjunction to the Use of *J. L.* or *J. N.* this is insufficient for the Uncertainty.

And in customary Grants upon Surrenders the Law is not so strict as in Grants at the Common Law. For in Grants at the Common Law, if the Grantee be not *in rerum natura*, and able to take by Virtue of the Grant presently upon the Grant made, it is meerly void: But in customary Grants upon Surrenders the Law is otherwise: For though at the Time of the Surrender the Grantee is not *in esse*, or not capable of a Surrender; yet if he be *in esse* and capable at the Time of the Admittance, that is sufficient; and therefore if I surrender to the Use of him that shall be Heir to *J. S.* or to the Use of *J. S.*'s next Child, or to the Use of *J. S.*'s next Wife; though at the Time of the Surrender *J. S.* had no Heir, Child or Wife,

The Law is not so strict in Copyholds, as to the Surrenders, as it is in Conveyances at Common Law.

Wife, yet if afterwards he hath a Child, or taketh a Wife, his Heir, his Child or his Wife may come into the Court, and compel the Lord to admit according to the Surrender. So if I surrender to the Use of him that shall come next into *Paul's* after such an Hour; whose Fortune soever it is to come first, the Lord must admit him, and I shall never avoid it. The same Law is, if I surrender to the Use of him that *J. S.* shall nominate to the Lord at the next Meeting.

The Reason of the Law is this; A Surrender is a Thing executory, which is executed by the subsequent Admittance, and nothing at all is invested in the Grantee before the Lord hath admitted him according to the Surrender; and therefore if at the Time of the Admittance the Grantee be *in rerum natura*, and able to take, that will serve.

Instruments used in Surrenders.

In some Manors, where a Copyholder surrendreth his Copyhold, he useth to hold a little Rod in his Hand, which he delivereth to the Steward or Bailiff, according to the Custom of the Manor, to deliver it over to the Party to whose Use the Surrender was made in the Name of Seisin; and from thence they are called *Tenants by the Verge*.

In some Manors, instead of a Wand a Straw is used; and in other Manors a Glove is used. *Et consuetudo loci semper est observanda. Coke's Copyholder 89, &c.*

Why Alienations of Copyholds must be by Surrender.

We have seen that all Alienations of Copyholds must be by Surrender into the Hands of the Lord, for should it be otherwise, the Lord would lose his Fine. Now all Surrenders are either actual, or Surrender in Law in *propria persona*, or by Attorney in Court, or out of Court; if out, then it must be presented, and be done by Letter of Attorney.

Surrender into the Hands of the Steward.

A Surrender, by the better Opinion of our Books, may be made to the Lord, or his Steward, though the Steward be only retained by Parol; if retained to be Steward of the Manor, and not only of the Court, even out of the Manor, and without any particular Custom to warrant it; and he may examine a Feme Covert privately: But a Surrender into the Hands of the Bailiff and two customary Tenants, and the like, is not good, if not warranted by a particular Custom. *Co. Litt. 59. 9 Co. 76. 4 Co. 30. Godb. 142. 1 Leon. 227, 228. Cro. Jac. 536. Salk. 184.*

Surrender into the Hands of two customary Tenants.

The Surrender may be made to a special Steward, for that Purpose appointed, or to one commissioned by the Steward, or by another Person authorized by Virtue of a Letter of Attorney from the Copyholder; or by two so authorized; who are in this Case to pursue all the Forms prescribed by the Custom, in all Things as the Copyholder himself must if he had been present, and in the Copyholder's Name. *1 Leon. 63. 4 Leon. 111. 9 Co. 76, &c.*

Surrender to other Persons.

What Action shall be deemed a Surrender in Law of a Copyholder, is a Point not well settled; but it seems to be a good Rule in general, That whatever Act of the Copyholder's shews, that it is his Will to hold his Estate no longer, is a Determination of his Interest. *W. Jones 42. Sed vide 1 Roll. Abr. 502. and 187. Hutt. 65. 3 Bull. 80. 1 Roll. Rep. 256. Cart. 24. Godb. 11. Raym. 402.*

Surrender
in Law.

If the Steward in the Entry of a Surrender regularly presented, omit the Condition, or mis-enter the Date, or by a Parity of Reason, should mistake the Day the Money is to be paid on, the Rolls shall be amended, and the Surrenderor shall not be estopped to give Evidence of the Truth.

Stewards
Mistakes
may be
amended.

If a Copyhold be surrendered to the Use of *A. B.* and his Heirs, till he marry *C. D.* and then to the Use of them two in Special Tail; this is valid, and shall enure accordingly. *Calth. fol. 22.*

Surrender
to *A. B.*
until he
marry
C. D. &c.

If a Copyholder surrender to the Use of a Stranger, in Consideration that the Stranger shall marry his Daughter before such a Day; in this Case, if the Marriage succeeds not, the Stranger shall take Nothing by the Surrender. But if the Consideration be, that the Stranger shall pay such a Sum of Money at such a Day, although the Money be not paid, yet the Surrender is valid. *Calth. fol. 37.*

Surrender
to the Use
of a Stran-
ger, &c.

If the Copyholder surrender his Land to the Use of *A. B.* so that *A. B.* pay 20 *l.* at such a Day if he please, this is an absolute, not a conditional Surrender. *Calth. fol. 39.*

Surrender
to *A. B.*'s
Use, if he
pay 20 *l.* at
a Day, &c.
Surrender
to the Lord
to the Use
of *J. S.*
paying
100 *l.* &c.
Surrender
to the Use
of one for
Life.

If a Copyholder surrender his Copyhold of Inheritance into the Hands of his Lord, to the Use of *J. S.* paying one hundred Pounds to his Executors within such a Time after his Death, he to whose Use this Surrender is made, takes by Force of this presently. *Bull. 2 Part, fol. 275. Mich. 12 Jac.*

If a Copyholder surrender to the Use of one for Life, who is admitted and dieth, he in the Reversion may enter without a new Admittance. *Leon. 1 Part. 114.*

If the Copyholder surrender to the Use of his right Heirs, the Land shall remain in the Lord, until the Death of the Copyholder, for then his Heir is known, &c. See *Dyer 99. Leon. Part 1. 133.*

If a Man seized of Copyhold Land in the Right of his Wife, or Tenant in Tail of a Copyhold doth surrender to the Use of another in Fee, the same doth not make any Discontinuance, but the Issue in Tail, and the Wife may respectively enter. *Leon. Part 1. fol. 124.*

An Infant who surrenders his Copyhold Land within Age may enter at his full Age, without being put to any Suit for it. *Poph. Rep. fol. 39.*

It was resolved by all the Barons of the Exchequer, *Pasch. 4 Jac.* That if a Copyholder surrender to the Use of a younger Son, and dies, that this younger Son cannot bring an Action till Admittance; but if the Copyhold be descended to the Heir, he may have an Action before Admittance. *Co. 4. fol. 22. Copyhold Cases:* It was likewise said, That all Copyholders of the King's Manors may now have Admittance into their Copyhold Estates well enough, and the Order for the Stay of their Admittances, which was made heretofore, is now dissolved and quash'd. *Lane's Rep. fol. 20.*

*Lane's
Rep. 20.*

A Surrender of a Copyhold cannot surrender before Admittance.

A Copyholder surrendered out of Court according to the Custom of the Manor, which at the next Court was presented, and Entry thereof made by the Steward, viz. *Compertum est per Homagium, &c.* but no Admittance, and afterwards *Cestuy que use* surrenders before Admittance, and the first Copyholder surrenders to the Plaintiff; and in this Case there were two Questions.

First, Whether he may surrender before Admittance?

The second was, Who shall have the Land? Whether the Copyholder or the Lord? And it was held, That he could not surrender before Admittance; and the Entry of the Surrender doth not make Admittance; for this being the sole Act of the Steward shall not bind the Lord, and it is not like to the usual Form of an Admittance, viz. *Dat Domino de fine, feict fidelitatem & admissus est inde rehen;* and it was agreed to, and said that in *Hare and Brickleg's Case*, the Admittance of a Copyholder was compared to the Induction to a Benefice which gives the Possession. *Poph. fol. 128.*

Poph. 128.

No Surrender by an Attorney without Deed, but an Admittance may be.

A Copyhold cannot be surrendered to another by Attorney without Deed, but one may be admitted to a Copyhold Estate by Attorney without a Deed. For there is a Difference betwixt the passing of an Estate, and the receiving of an Estate passed. *Præf. Reg. Title Surrender; 2 Apr. 1650. B. R.*

Yet note, In *Co. 9 Part, Combe's Case*, it is affirmed, That a Surrender of a Copyholder may be given and taken by Attorneys.

The Presentment, by the general Customs of Manors, is to be made at the next Court-Day immediately after the Surrender; but by special Custom in some Places it will serve at the second or third Court. And it is to be made by the same Persons that took the Surrender, and in all Points material according to the true Tenor of the Surrender. And therefore if the Surrender be conditional, and the Presentment be absolute, both the Surrender, Presentment and Admittance thereupon are wholly void.

But

But if the Condition of Surrender be presented, and the Steward in entring of it omitteth the Condition, yet upon sufficient Proof made in Court, the Surrender shall not be avoided, but the Roll amended: And this shall be no Conclusion to the Party, to plead or give in Evidence the Truth of the Matter.

If I surrender out of Court, and die before Presentment, if Presentment be made after my Death, according to the Custom, this is sufficient. So if he to whose Use the Surrender is made, dieth before Presentment; yet upon Presentment made after his Death, according to the Custom, his Heir shall be admitted. And so if I surrender out of Court to the Use of one for Life, the Rendror and the Lessee for Life dieth before Presentment, yet upon Presentment made, he in the Remainder shall be admitted. And so if I surrender to two jointly, and one dieth before Presentment, the other shall be admitted to the whole. The same Law is, if those into whose Hands the Surrender is made, die before Presentment, upon sufficient Proof in Court that such a Surrender was made, the Lord shall be compelled to admit accordingly: And if the Steward, the Bailiff, or the Tenants into whose Hands the Surrender is made, refuse to present, upon a Petition or a Bill exhibited in the Lord's Court, the Party grieved shall find Remedy. But if the Lord will not do him Right, he may both sue the Lord and them that took the Surrender in the Chancery, and shall there find Relief. *Coke's Copyholder* 106. 4 Co. 29. & 29. Co. Litt. 39.

Admittances are threefold.

1. An Admittance upon a voluntary Grant.

2. An Admittance upon Surrender.

3. An Admittance upon a Descent.

In voluntary Admittances the Lord is an Instrument: For though it is in his Power to keep the Land in his own Hands, or to dispose of it at his Pleasure, and to that Intent he may be reputed as absolute Owner; yet because in disposing of it he is bound to observe the Custom precisely in every Point, and can neither in Estate nor Tenure bring in any Alteration, in this Respect the Law accounts him Custom's Instrument. If the Custom doth warrant an Estate only *antient viduitate*, and the Lord admits for Life; this shall not bind his Heir or Successor, because Custom hath not sufficiently confirmed it. So if the Lord fail in reserving *verum & antiquum redditum*, as if he reserveth ten Shillings, where the usual Rent customably reserved is twenty Shillings; this may be a Means to avoid the Admittance. And the Law is very strict in this Point of Reservation: For though the ancient accustomed Rent be reserved according to the Quantity, yet if the Qua-

Admittances divided.

Of voluntary Admittances.

lity of the Rent be altered, the Heir may avoid this Grant. For if the ancient Rent from Time to Time hath been twenty Shillings in Gold, and the Lord reserveth it in Silver, this Variance of the Quality of the Rent is in Force to destroy the Grant: So, if the ancient Rent hath been accustomedly paid at four Feasts in the Year, and the Lord reserveth it at two Feasts. So, if two Copyholds escheat to the Lord, the one of which hath been usually demised for twenty Shillings Rent, the other for ten Shillings Rent, and he granteth them both by one Copy for one Rent of thirty Shillings; this is not good: And so if a Copyhold of three Acres escheats, which hath ever been granted for three Shillings Rent, and the Lord granteth one Acre, and reserveth *pro rata* one Shilling Rent, *verum & antiquum redditus* is not reserved. But if a Copyhold of six Acres, which hath ever been demised for six Shillings Rent, escheateth to two Copartners, and one granteth three Acres, reserving three Shillings *pro rata*; this is a perfect Reserving.

In Admittances upon Surrender, the Lord to no Intent is reputed as Owner, but wholly as an Instrument; and the Party admitted shall be subject to no other Charges or Incumbrances of the Lord, for he claims his Estate under the Party that made the Surrender; and in the Plaint in the Nature of a Writ of Entry in the *per* it shall be supposed in the *per* by him, not by the Lord. *Coke's Copyholder* 109.

Of Admittances on Descents.

And as in Admittances upon Surrenders, so in Admittances upon Descents, the Lord is used as a meer Instrument, and no Manner of Interest passeth out of him; and therefore neither in the one nor in the other is any Respect had unto the Quality of his Estate in the Manor; for whether he had it by Right or by Wrong, it is not material; these Admittances shall never be called in Question for the Lord's Title, because they are judicial Acts, which every Lord is enjoined to execute.

Besides, in Admittances upon Surrenders the Lord being accounted nothing but a necessary Instrument, it followeth that he hath a bare customary Power to admit *secundum formam & effectum sursum redditionis*; therefore if there be any Variance between the Admittance and the Surrender either in the Person, in the Estate, or in the Tenure, or in any other collateral Points, the Lord doth only transfer an Estate according to the Surrender and his Authority, if it can take such Effect. As if I surrender to the Use of J. S. for Life, and the Lord admits him in Fee, an Estate for Life only passeth. So if I surrender without mentioning any certain Estate, because by Implication of the Law an Estate for Life only passeth, though the Lord admit in Fee, no more doth pass than the Implication of Law will warrant.

Where

Where an Authority is given to any one to execute any Act, and he executeth it contrary to the Effect of his Authority, this is utterly void : But if he executeth his Authority, and withal goeth beyond the Limits of his Warrant, this is void for that Part only wherein he exceedeth his Authority.

These Admittances upon Surrender differ from Admittances upon Descents in this, that in Admittances upon Surrender nothing is vested in the Grantee before Admittance, no more than in the voluntary Admittances; but in Admittances upon Descents the Heir is Tenant by Copy immediately upon the Death of his Ancestor, not to all Intents and Purposes; for peradventure he cannot be sworn of the Homage before, neither can he maintain a Plaint in the Nature of an Assize in the Lord's Court before, because till then he is not compleat Tenant to the Lord, no farther forth than the Lord pleaseth to allow him for his Tenant. *Coke's Copyholder*, 109, &c.

Admittances on Surrenders, and how they differ.

As soon as the Surrendree is admitted, the Admittance having Relation to the Time of the Surrender, which is therefore to be ever carefully recorded on the Rolls, the Surrendree shall be said to be in from that Time: So that should a Surrendrer die before Admittance, the Wife shall not claim of the Estate so surrendered, her Free-bench. *Bridgm.* 81. *Poph.* 127. 3 *Lev.* 385. 8. *C. Salk.* 185.

How the Admission relates.

But this being so for the Lord's Security, that he may be satisfied of his Rent, &c. before the new Tenant is admitted; yet if the Lord accept Rent of the Surrendree before any actual Admittance, the Rent being due to the Lord only from a Tenant, it seems to be an Admission in Law, and the Estate is immediately in the Tenant. *Bridgm.* 49, and 52. *Bulstr.* 214.

Admission in Law.

As to the Heir, that he may enter and take the Profits before Admittance, is the general Opinion of our Books; but it seems the Lord may seize *quousque*, if he do not come in on the first Proclamation to be admitted; and I conceive very good Reasons may be given for both these Opinions, viz. That the Lords not residing as formerly on their Estates to oblige the Copyholder to be admitted before he entered, might be very inconvenient; and not to leave a Power in the Lord to seize *quousque*, would be putting a greater Difficulty upon the Lord, by allowing the Tenants possibly near three Year's Possession of the Estate before the Lord would be intitled to his Services, or get his Fine paid. See 4 *Co.* 22, 23. 1 *And.* 192. *Gro. Eliz.* 148. *Mo.* 597. 1 *Leon.* 100. *Noy* 172 *Lane* 20.

With Respect to the Heir himself.

With Respect to others who claim under the Copyholder, 'tis as if he had been admitted; for it would be unreasonable that a Third should be prejudiced by the Delay of the Admittance. Thus the Husband shall be Tenant by the Curtesy of a Copyhold in a Manor where there is such a Custom, tho'

To those that claim under him.

the Wife dies before Admittance : So likewise if after Entry of the Copyholder, or of his Guardian, if he be an Infant, though before Admittance the Copyholder dies, yet there shall be a *posseho fratris*. 4 Co. 22. Mo. 125, and 271. 1 And. 192. 1 Mod. 102, 120.

What Admittances by Wrong-doers good.

The Admittances made on Surrenders by any in Possession, though they be Wrong-doers, or however weak their Title is, are good and binding against him that hath the Right; for the Act was no more than the Law would compel them to do: And if Surrenders are made to one who hath a particular Estate in a Manor, and this Estate determines before the Admittances are made accordingly, the next Lord is compellable to do it. Co. Litt. 58. On. 27, 28. 1 Ven. 360.

And why.

For the Lord is but the Instrument, and nothing passeth out of the Lord, but to answer the Purposes of the Surrenderor, by whom the Surrenderee after Admittance shall be said to be in, and not by the Lord; for if the Lord admit the Surrenderee to a larger Estate than limited by the Surrender, yet no greater passes to him. 4 Co. 28, 29. 1 Roll. Rep. 237, 317, and 438.

How the Admission to be where the Surrenderee is dead.

Where, by the Act of God, it becomes impossible to admit according to the Surrender, then the Admission as near to the Surrender as possible shall be good: As if one surrender to the Use of himself for Life, Remainder to B. &c. If the Surrenderor dies, B. shall be admitted, so if the Surrender had been to J. S. in Fee, and J. S. had died, the Heir should be admitted. Dyer 251. 2 Sid. 38, and 61.

Admission by Attorney may be denied.

'Tis a discretionary Act in the Lord to admit any one by Attorney or not, because he ought to do Fealty, which cannot be done by Attorney. 9 Co. 76.

Admission by Attorney may be denied.

That the Lord may admit out of Court is agreed, but whether the Steward may is *uxata Questio*; and the Books in this exceedingly vary; perhaps this Distinction may solve it, viz. that those Books which hold the Negative, are to be intended of the Stewards of the Court, and not of Stewards of the Manor; for the Steward hath the Power of the Lord, and he may. Sed vide Bridge 49. 3 Bulst. 314. Cro. Jac. 403. Godb. 268. 1 Roll. Abr. 527. 4 Co. 26, 27. Salk. 184.

Admittances by Implication of Law.

Besides these expressed Admittances, there are Admittances by Implication of Law; as if the Lord knowing of the Surrender, accept the Rent due by Reason of the Party's holding the Land: So if the Surrenderee surrender his whole Interest to another before Admittance, by the better Opinion of our Books the Admittance of the second Surrenderee shall enure as an Admittance of the first: But if he only surrender Part of his Estate, or if no Admittance, but only the Surrender, is entered on the Roll; if 'tis not accepted, 'tis none. 3 Bulst. 214, 319, and 227. Cro. Eliz. 504, 661. 2 Sid. 61. Style 146. Cro. Jac. 403.

403. *Godb.* 268. *Abr.* 49, and 52. *Nlv.* 144. *Bridgm.* 81. *Poph.* 127.

If a Copyholder surrenders to one for Life, Remainder to another, and the Surrendree is admitted, this is an Admission of him in Remainder. 4 Co. 22.

Where the Wife is intitled to her Free-bench by the Custom of the Manor, she shall have the Estate before any Admittance, and may enter and make a Lease for a Year; because her Estate is only a Branch of her Husband's, and there is no Fine due to the Lord. *Ny 29 S. C. 2 Roll.* 178. *Hob.* 181.

Free bench vests in the Wife before Admittance.

On these Admittances and Surrenders a Fine being due to the Lord, we now proceed to treat of them.

A Fine is a Sum of Money paid to the Lord of the Manor for an Income into any Lands or Tenements. In some Manors Fines are certain, in some incertain. *Fines.*

By special Custom Copyholders are to pay Fines upon Licences granted unto them to demise by Indenture; but by general Custom they are to pay Fines only upon Admittances.

If the Lord having a Copyhold by Escheat, Forfeiture or other Means, maketh a voluntary Admittance, a Fine is due unto the Lord.

If a Copyholder surrendreth to the Use of a Stranger, and the Lord admitteth, a Fine is due to the Lord.

So if a Copyhold descendeth, and the Lord admitteth the Heir, where by the Custom of the Manor the Wife is to have Dower, and the Husband is to be Tenant by the Curtesie of a Copyhold; either of them shall be admitted, and shall pay a Fine to the Lord.

But one Fine is due on the Admission of one for Life, Remainder to another; nor is there any Fine due before Admittance, nor is any Fine due for an Admission to a Reversion, because it ever continued in the Surrendree. 4 Co. 22. 9 Co. 107. 3 Lev. 308.

When one Fine only due.

If two several Copyholders join in a Grant of their Copyhold by one Copy; or if one Copyholder, having several Copyholds, granteth them by one Copy; yet the Grantee shall pay several Fines, for they shall inure as several Grants.

But if two Jointenants, two Tenants in Common, or Tenant for Life and he in the Remainder, join in the Grant of a Copyhold, one Fine only is due, and it shall enure as one Grant only: So if a Surrender be made, and after a Common Recovery is had by Plaint in the Nature of a Writ of Entry *in le post.* for the better Assurance, one Fine only shall be paid.

A Fine may be due on every Change of the Tenant, by Act of God, or Act of the Party; or on Change of the Lord, by Act of God, but not by Act of the Party; for thereby the Tenant might be without Reason and Measure oppressed. *Co Litt.* 59. 4 Co. 28. *Cro. Elix.* 779. *Moor* 622.

Fines, when they may be due by Change of the Partica.

Fines cer-
tain must
be tender'd.

In some Manors the Fines are certain, in others uncertain; if the Fines are certain the Heir ought to tender it when he prays to be admitted. *Co. Litt. 59.*

Uncertain
Fines.

If there be several Copyholds, the Fines ought to be assessed severally, because the Tenant may be willing to forfeit one by refusing to pay the Fine for that, but not the rest. *4 Co. 28.*

When to
be paid.

Where the Fines are uncertain, the Lord must assess a reasonable Fine; what is a reasonable Fine, and what not, is to be determined by the Judge. But Experience shews us, that a Fine not exceeding two Years Value is a reasonable one; if the Fine be an unreasonable one, the Copyholder is not obliged to pay it; if reasonable, yet as the Sum was uncertain, he shall have a convenient Time to pay it in, and the Lord may appoint the Day. *Litt. Rep. 252. Godb. 265. 2 Bulst. 32. 13 Co. 2. 1 Roll. Rep. 75. Cro. Car. 196. Cro. Jac. 671. 3 Lev. 255. 3 Mod. 132. Hob. 135. 4 Co. 27. 1 Roll. Abr. 513, and 578. Cro. Eliz. 779. Mo. 622.*

A Copyhold Fine must be assessed in open Court, and not in a Book out of Court.

*Cro. part 1.
fol. 142.*

Hill. 5. Car. Rot. 125. Dow and others against *Golding*, in Trespass upon a Demurrer, and the Question was, Whether the Lord of a Manor may assess two Years and a half Value of Land according to racked Rent for a Fine upon Grant of a Copyhold, and for Non-payment Entry for Forfeiture? And all the Court conceived, That one Year and a half of Rent improved is high enough; and the Defendant assessing two Years and a half, it is unreasonable; and therefore the Plaintiff might well refuse the Payment thereof, and consequently the Entry of the Defendant for a Forfeiture not justifiable.

In a Copy-
hold the
Unreason-
ableness of
the Fine
must come
on the
Part of the
Tenant.

Cro. Part 1. fol. 142. A Copyholder brought an Action of Trespass against his Lord, for an House and an Acre of Land. The Defendant pleaded that he had admitted the Copyholder, and had assessed a Fine of twenty Nobles upon it, and had appointed him to pay it to his Bailiff, at his House, being within the Manor, three Months after, and alledged, that he had not paid it accordingly; whereupon the Plaintiff demurred, and the Opinion of the Court was, That the Lord was not bound to aver, or shew that the Fine assessed was reasonable, but it must come on the Copyholder's Side, to shew the Circumstance of the Case, to make it appear to the Court to be unreasonable, and so to put it upon the Judgment of the Court. For the Fine in Law is arbitrary, and is due to the Lord of common Right, and it is only in Point of Excuse to the Tenant, if it be unreasonable, which the Court cannot judge, but upon the Fact agreed; and the Copyholder, if he be a Defendant, may plead not guilty: And then it shall come in Evidence whether the Fine was unreasonable or no. But the Opinion of the Court was against the Lord in this Case, because he had not laid a

Demand of his Fine, at the Time it grew due, or some Time after, of the Person of the Tenant, as the Lord must do in case of Forfeiture of Copyhold, both for Rent and Fine. *Hob. Rep. fol. 135. Denny versus Lemman.*

S E C T. III.

Of the Rights of the Lord, and the Engagements of the Copyholder.

THE Rights of the Lord are to his Services; those Services are either Services of Submission or of Profit; the Service of Submission is Fealty, which every Tenant is bound to swear to his Lord. The Form of which Oath you may see below.

Services of Profit are of two Sorts. 1. Tending to the public Profit of the Commonweal; as when the Lord enjoineth his Tenant to amend Highways, to repair decayed Bridges, or *similia*. 2. Tending to the private Profit of the Lord; as where the Tenant is enjoined to be the Lord's Carver, Butler or Brewer, or istied to pale the Lord's Parks, to tile the Lord's Houses, to thatch the Lord's Barns, and *similia*. And thus much for corporal Services.

Annual Services are in Number infinite, in Nature all one, for they all tend to the Increase of the Lord's Coffers, and are reserved in their Duties, as well for Copyhold Land as Freehold Land, though in the *Saxons* Time, and long after the Conquest, they were never or seldom reserved for Copyhold Land, but only for Freehold Land. I will not enumerate the many Particulars of annual Services, for that were as endless as numbring the Sands of the Sea; only this I say, that those annual Services which here come within the Compass of my Meaning consist all in Render, none in Feafance; for those annnal Services, which consist in Feafance, I comprehend under corporal Services.

1. That accidental Services differ from corporal and annual Services in this, that most accidental Services are incident to the Fee, and are due without special Reservation of the Lord; but most corporal Services and all annual Services are due upon special Reservation, and are not incident unto the Fee.

2. That Service is taken in a double Sense, *in strictiori sensu*, and *in latiori sensu*. *In strictiori sensu*; and in that Sense the Feudists define *Servitium fore munus obsequii clientelario*, &c. that Duty which the Tenant oweth unto his Lord, either in performing some corporal Function, or in discharging some annual Payment. *In latiori sensu*, and so it signifieth any Duty

Corporal and accidental Services, how they differ.

Service, what.

what.

whatsoever accruing unto the Lord by Reason of his Seigniorie; and in this Sense these accidental Services following (which *prima facie* may seem better to rank under the Title of Jurisdiccions, or rather under the Name of the Fruits of a Manor) may very fitly be reduced to this Kind of Services.

Heriot.

Heriot or Hariot cometh of the Latin Word *Herus, Dominus*, because 'tis a Duty appropriated to the Lord; or it is derived from the Saxon Word *Here, Exercitus*, because in the Saxons Time, when the Name of Heriot was first known, Heriot signified nothing else but a Tribute given to the Lord for his better Preparation towards War, as a Horse trapped, or a Spear, or Armour, or a Sword, or some such like military Weapon; and therefore in this Sense, importing a Thing appertaining to the War, and being due unto the Lord, by Reason of this Service which Tenants owe unto their Lords in any warlike Employments, it may very fitly be derived from hence. This their Heriot among the Saxons little differed from our Relief at this Day; howsoever now they differ *ex diametro*. But let us examine the Nature of our Heriots at this Day, and not search into the Nature of their Heriots in those Days; for that were to examine the Nature of Reliefs, not Heriots. Britton thus speaketh: *A Heriot is a Render made at the Death of a Tenant to his Lord of the best Beast found in the Possession of the Tenant deceased, or of some other, according to the Ordinance and Assignment of the Party deceased, to the Use of the Lord; which toucheth not the Land at all, nor the Heir, nor his Inheritance, neither hath any Comparison to a Relief; for it proceedeth rather of Grace and good Will than of Right, and rather from Villains than*

Vide Lamb.
in his Ex-
plication
of the
Saxon
Words.

Britton,
cap. 69.

Fleta, lib. 4.
cap. 18.

To this Effect speaketh Fleta: Heriotum est quoddam prestatio ubi tenens, liber vel servus, in morte sua Dominum suum respicit de meliori Avario suo, vel de secundo meliori; quæ quidem prestatio magis fuit de gratia quam de jure, Et nullam habet comparationem ad Relevium, eo quod heredi non continget, quia factum antecessoris.

Heriots
twofold.

This our Heriot is twofold; Heriot-Service and Heriot-Custom. Heriot-Service is that Heriot which is never due without special Reservation, and is seldom reserved upon any less Estate than an Estate of Inheritance. Heriot-Custom is that Heriot which is never due upon special Reservation, but is challenged upon some particular Custom, and is usually paid upon an Estate for Life, and for Years, as well as upon an Estate of Inheritance. Touching the Original of these Heriots, doubtless they are not of that Antiquity which the Name doth promise: For though among the Saxons the Name of Heriot was known, yet the Nature of both these Heriot-Services and Heriot-Custom was utterly unknown until the coming of the Normans, who immediately upon the Conquest chang'd the Name of the Saxon Heriot, and termed it by the Name of a Relief, leaving notwithstanding some Difference

betwixt

betwixt them ; for where the Saxons Heriot consisted usually in the Payment of some military Weapon, our Relief in those Days consisted wholly in the Payment of a certain Sum of Money. And presently after the Normans had thus wholly altered the Name, and somewhat altered the Nature of the Saxons Heriot, then upon the parcelling of their Lands unto inferior Tenants, they invented this new kind of Service, unknown amongst the Saxons, and termed it by the Name of Heriot-Service. Afterward, upon the Infranchisement and Manumission of certain Villains, these Heriot-Customs were given to the Lords as a continual future Gratulation. So that originally, as Britton and Fleta well note, they were granted merely *ex gratia* ; but now Time hath effected it that they are challenged *ex debito*.

Relief is a certain Sum of Money which every Freeholder payeth unto his Lord, being at full Age at the Death of his Ancestor, which in Effect soundeth all one with these Words of Glanvil : *Heredes majores statim post dec. sum. Antecessorum suorum possint se tenere in hereditate sua, licet Domini possint heredum suum cum herede in manus suas capere : ita tamen moderate id fieri debet, ne aliquam dissensionem heredibus faciant ; possunt enim heredes, si opus fuerit, violentiæ Dominorum resistere, dum tamen parati sunt Relevium & alia retro servitia eis inde facere.* With this agreeth the Definition of Hotoman ; *Relevium est honorarium quod novus Vassallus introitus causa patrono largitur, quasi morte usuali alius, vel alio quo casu Feodum ceciderit, quod jam a novo subleuatur.* This Relief by the ancient Civil Law was termed *Introitus* ; and Vincentius termeth it *Præstationem seu solutionem factam pro confirmatione seu renovatione possessionis*, and that very aptly : for indeed Relief is the Key which opens the Gate to give the Heir free Passage to the Possession of his Inheritance. Bracton giveth this Reason why it is called a Relief, *Quia hereditas, quæ jactens fuit per antecessoris decessum, releviatur in manus heredis ; & propter factam Relevationem faciendâ erit ab herede quadam præstatio quæ dicitur Relevium.* Skene fondly imagineth that it taketh its Name a *relevando*, in another Sense ; for, saith he, Relief is given by the Tenant or Vassal being of perfect Age, after the expiring of the Wardship, to the Lord of whom he held his Land by Knight-service, that is, by Ward and Relief ; and by Payment thereof he relieves, and, as it were, raiseth up again his Lands, after they were fallen down into his Superiours Hands by Reason of Wardship. But these Words of Glanvil will serve to convince him of Error ; *tandem vero eodem ad ætatem perveniente, & facta ei hereditatis restitutione, quietus erit a Relevio ratione custodiæ.* This Relief is twofold ; 1. Relief-Service. 2. Relief-Custom. Relief-Service is that which is paid upon the Death of any Freeholder. Relief-Custom is that which is paid upon the Death, Change or Alienation of any Freehold, according to the Custom of the Place ; in many

Relief.

Glanv.
lib. 7. c. 9.

Hotoman
Comment.
de verbo
Feod. &
verbo Re-
levium.

Bracton,
lib. 2. c. 86.

Skene de
verb. sign.
viz. Relief.

Glanvil,
lib. 9. c. 9.

many

many Places half a Year's Profit, in many Places a whole Year's Profit. And therefore where *Bracton* saith, *Quod dar Domino Relevium qui succedit jure hereditatis, non autem is qui acquirit*; that is to be taken with this Caution, *nisi illud etiam consuetudine prestare debet qui acquirit*. These Reliefs are paid as well for Lands holden in Socage, as Lands holden by Knight-service. For Lands holden in Socage in this Manner: If a Tenant in Socage die, his Heir above the Age of fourteen, then shall the Heir double the Rent that his Ancestor was wont to pay to the Lord; and if the Tenant holdeth of his Lord by Fealty and five Shillings, then shall the Heir double the Rent, and shall pay ten Shillings, *viz* five Shillings in the Name of a Relief, over and above the five Shillings which he payeth for his Rent.

Relief and
Heriots,
how they
differ.

1. They differ in this, that a Heriot lieth in Prender, and a Relief in Render. 2. In this, that a Heriot is paid in the Name of a Tenant deceased; but a Relief in the Name of an Heir who is become Tenant. 3. In this, that Heriots are paid by Copyholders as well as Freeholders; but Relief by Freeholders only. 4. In this, that Heriots are ever due upon a special Reservation, or upon some particular Custom; but Reliefs are incident to the Fee, and are due without Reservation or Custom, contrary to the Opinion of *Vincentinus*, who holdeth a Relief *extrinsecam fore prestationem, & non in esse Feodo*.

Amercia-
ment,
what.

Amerciament is a pecuniary Punishment for any Offence committed against the Lord of any Manor; or (as some more at large define it) it is a certain Sum of Money imposed upon the Tenant by the Steward, by Oath and Presentment of the Homage, for the Breach of any By-Law made either for the Profit of the whole Kingdom, or for the Benefit of the little Commonwealth among themselves, or for Default of doing Suit, or for other Misdemeanours punishable by the same Court, infinite in Number and Quality. And this Word *Amerciament* taketh its Name from being in the Lord's Mercy, to be punished more or less at his Will and Pleasure; and it differeth from a Fine in divers Respects.

How it
differs from
a Fine.

1. In that whosoever is fined may lawfully be imprisoned, but whosoever is amerced cannot. 2. In this, that Amerciaments are incident unto Courts Baron as well as unto Court-Leets; and Fines are never incident to any Courts-Baron, but to Court-Leets only, or other Courts of Record. 3. That Amerciaments are incident unto every Manor whatsoever; but Fines are incident unto some few Manors only. The Reason of this Difference is partly grounded upon the former Difference: For since Amerciaments are incident unto every Court Baron, and Courts Baron are incident unto every Manor; *sequitur ex consequente*, that unto every Manor Amerciaments are incident: But *ex adverso*, Fines being incident unto Court-Leets

Leets only, and those Court-Leets being in some few Manors only, not in every Manor; expressly sequitur, that Fines are not incident unto every Manor, but unto some few Manors only. 4. In this, that Amerciaments are affeerable *per pares*, per sacramentum proborum & legalium hominum de vicineto, qui, secundum modum delicti, majori vel minori amerciamento delinquentem multare possunt: But Fines are never affeerable in this Kind; for look what Fine soever the Court imposeth upon the Delinquent, that bindeth sufficiently without farther Affeerance.

This Law of Affeerance was before the Statute of Magna Charta; for Glanvil thus speaketh of it; *Est autem Misericordia Domini Regis, quo quis per juramentum legalium hominum de vicineto eatenus amerciandus est, ne aliquid de suo honorabili continen. amittat:* *Glawo. lib. 1. c. 11.* And therefore by this appeareth, that this Statute of Magna Charta was but an Affirmance of the Common Law in this Point of Affeerance. Touching the second Question, know that it is not in the Power of the Court to impose a Fine or an Amerciament at their Election for any Offence committed, but still the Quality of the Punishment must necessarily suit with the Quality of the Offence: From the several Natures of Offences committed, arise the several Names of Punishments inflicted. The Offences in Respect of the Place are twofold, and in Respect of the Persons twofold. In Respect of the Place, 1. Offences committed *extra Curiam*, of which the Steward by no common Possibility can have Cognizance without the Presentment of the Homage; and therefore the Power of presenting them, and imposing Punishments for them, belongeth unto the Jurors of the Leet, and not unto the Steward; and these Punishments thus imposed are termed *Amerciaments*. 2. Offences committed *in Curia*, of which the Steward can take sufficient Notice, without the helping Hand of the Homage; and as therefore the Punishments of these Offences belong unto the Steward, not unto the Jurors; and these Punishments thus imposed are termed *Fines*. Thus in Respect of the Place Offences are twofold. In Respect of the Person they are likewise twofold. 1. Offences committed by private Persons. 2. Offences committed by publick Officers and Ministers of the Court, in the Administration of their Office. Punishments imposed for Offences of the former Rank are termed *Amerciaments*, of the latter Rank *Fines*; the one affeer'd *per pares*, the other not. And the Reason why the Statute of Magna Charta in this Point of Affeerance extendeth not unto any Offences committed in Court by private Persons or publick Officers; neither unto any Offences committed *extra Curiam*, by publick Officers in Administration of their Office is this, because though the Words of the Statute are generally extending unto all Offences whatsoever; yet the Intent of the Statute-makers was not to make the Jurors Affeers in omnibus delictis multandis, sed in iis tantummodo puniendis *Electa lib. 1. cap. 98.* *Co. 8. Graif. ley's Case.*

quorum certam possint habere notitiam & intelligentiam, as Plea speaketh. And therefore since the Steward hath more certain Notice of Offences committed in *Curia*, by what Persons soever, than the Jurors have, and can better judge and discern of the Natures and Qualities of Offences committed *extra-Curiam* by publick Officers than Jurors can; therefore surely the Intent of this Statute was, to leave the Punishment of these Offences to the Discretion of the Steward, and not to the Affeurance of the Homage.

Escheats.

Escheats cometh of the French Word *Echear*, *excidere*, and are termed *Excidentia*, which imports Lands fallen into the Lord's Hand for Want of Heir general or special to inherit them. But before the Lord enter into an Escheat in this Kind, the Homage ought to present it, and being presented, Proclamation ought to be made to give Notice to the World, that if any Man come in and justly claim, he shall be received; the Homage then finding it clear, intitle the Lord as to Lands escheated.

Besides this ordinary Sort of Escheat, there is another Sort of Escheat, and that is, where any Freeholder committeth Felony, and is attainted, the King shall have *annum, diem & vasum*; and then it cometh to the Lord as an Escheat.

For the Recovery of all these Rights the Law hath provided various Remedies for the Lord: In some Cases the Land it self shall be the Lord's as forfeited; in other Cases the Tenant shall be distrained or punished by Amercement, of which we now proceed to treat more at large; and first of Forfeiture.

Forfeiture cometh of the French Word *Forfait*, *Seelus*; *quia scelorum & delictorum perpetratio est forisfacturarium causa & origo*. In our Language it signifieth the Effect of transgressing, rather than the Transgression it self; I mean, it signifieth the Penalty for the Offence committed, rather than the Act it self whereby the Offence it self is perpetrated; and it extendeth both unto Lands and unto Goods; unto Lands, both Copyhold and Freehold.

Forfeiture of Goods.

Touching the Causes from whence grow the Forfeitures of Goods, they are likewise in Number many; and from the several Causes of forfeiting Goods arise several Names of Goods forfeited. 1. If a Felon stealeth Goods, and upon Pursuit waiveth these Goods, and leaveth them in any Part of the Manor, and be not attached upon the fresh Suit of the Owner; then are these Goods forfeited to the Lord, and are termed *Waifs*. 2. If any Beasts are found wandering in any Place, and be proclaimed in three Market-Towns adjoining; and are not claimed by the Owner in a Year and a Day, then are the Beasts forfeited to the Lord who hath such a Liberty, and are termed *Strays*.

Waifs.

Strays.

Touching

Touching the Causes from whence Forfeitures of Freehold Land arise. Freeholds how forfeited.

The Causes are many, amongst the which I have observed,
1. That if any Freeholder alieneth his Land in Mortmain, he forfeiteth his Freehold. 2. If a Freeholder ceaseth for the Space of two whole Years to perform such Services, or to pay such Rents, as he is tied unto by his Tenure, and hath not upon his Land sufficient Goods or Chattels to be distrained, he forfeiteth his Freehold. 3. If any Freeholder infringeth any Condition whereunto he is tied, he forfeiteth his Freehold.

Of Acts which amount to Forfeiture, some are Forfeits *eo instante* that they are committed, some are not Forfeits till Presentment. Offences which are apparent and notorious, of which the Lord by common Presumption cannot chuse but have Notice, are Forfeitures *eo instante* that they are committed; as if by special Custom, upon the Descent of any Copyhold of Inheritance, the Heir is tied upon three solemn Proclamations made at three several Courts, to come in and be admitted to his Copyhold; if he faileth to come, in this Failer is a Forfeiture *ipso facto*. What Forfeits on Estate. Forfeitures ipso facto.

So if a Copyholder be sufficiently warned to appear, and he faileth; this is a Forfeiture *ipso facto*.

But if he be hindred by Sicknes, or by overflowing of Waters, or if he be much in Debt, and fear to be arrested, or if he be a Bankrupt, and keepeth his House; then his Default is no Forfeiture.

If a Copyholder in the Court be called and summoned to be sworn of the Homage, and refuseth: So if a Copyholder be sworn of the Homage, and then refuseth to present the Articles according to his Oath; this is a Forfeiture *ipso facto*.

So if a Copyholder will swear in Court that he is none of the Lord's Copyholder, this is a Forfeiture *ipso facto*.

But if a Copyholder in Presence of the Court speaketh unreverent Words of the Lord, as that the Lord exacteth and extorteth unreasonable Fines and undue Services; this is fineable only, but no Forfeiture: And if he saith in Court that he will devise a Means no longer to be the Lord's Copyholder, this is neither Cause of Fine nor Forfeiture; for peradventure the Means that he intended was lawful, viz. by passing away his Copyhold. *Et ubi sensus verborum est multiplex, verba semper sunt accipienda in meliori sensu.*

If the Steward sheweth a Court-Roll to a Copyholder, to prove that his Land is holden by Copy, and the Copyholder saith he is a Freeholder, and sheweth a Deed, pretending thereby to procure his Land to be Freehold, and teareth in Pieces the Court-Roll; this is a Forfeiture *ipso facto*.

So if the Lord, upon the Admittance of a Copyholder, the Fine by the Custom of the Manor being certain, demandeth his Fine, and the Copyholder denieth to pay it upon Demand, this is a Forfeiture *ipso facto*.

So if a Copyholder will sue a Replevin against the Lord upon the Lord's lawful Distress for his Rent or Services; this is a Forfeiture *ipso facto*.

But if the Copyholder be in Doubt whether it be due or not, and therefore intreateth the Lord that the Homage may Inquire the Truth; this is no Forfeiture.

If the Fine by the Custom of the Manor be uncertain, tho' a reasonable Fine be assessed, yet because no Man can provide for an Incertainty, the Copyholder is not bound to pay it presently upon Demand, but shall have convenient Time to discharge it, if the Lord limit no certain Day for Payment thereof; and if within convenient Time it be not discharged, this is a Forfeiture without Presentment.

But if the Fine be unreasonable, though it be never paid, it is no Forfeiture; and it shall be determined by the Opinion of the Justices before whom the Matter dependeth, either upon a Demurrer, or in Evidence to the Jury, upon the Confession or Proof of the yearly Value of the Land, whether the Fine be reasonable or not: For if the Lords might assess unreasonable Fines at their Pleasures, then most Estates by Copy, which are a great Part of the Kingdom, and which have continued Time out of Mind, might now at the Will of the Lords be defeated and destroyed, which would be very inconvenient.

If the Lord demandeth his Rent, and the Copyholder denieth to pay it; this is a Forfeiture *ipso facto*.

So if the Copyholder saith that he wanteth Money to discharge the Rent, and therefore entreateth the Lord to forbear until he be better provided; unless the Lord giveth his Consent, this Non-payment is a Forfeiture *ipso facto*.

For a Copyholder, knowing his Day of Payment, is to provide against the Day. But if the Lord cometh upon the Copyholder's Ground, and demandeth his Rent, and neither the Copyholder himself, nor any other by his Appointment, is there present to answer their Demand, though this be a Denial in Law of the Rent, yet this is no Forfeiture.

But if the Lord continueth in making Demand upon the Ground, and the Copyholder is still absent, this continual Denial in Law amounteth to a Denial in Fact, and maketh the Copyholder's Estate subject to a Forfeiture without Presentment.

If a Copyholder for Life suffereth a Recovery by Plaint in the Lord's Court as Copyhold of Inheritance, this is a Forfeiture *ipso facto*.

But

But if he surrender in Fee, this is no Forfeiture, because it did not pass by Livery.

If a Copyholder committeth Waste voluntary or permissive, this is a Forfeiture *ipso facto*.

Voluntary : As if he plucketh down any ancient-built House, or if he buildeth any new House, and then pulleth it down again; or if he ploweth Meadow, so that thereby the Ground is made worse; or loppeth the Trees, or selleth the Lopping; or if he cutteth down any Fruit-trees for Fuel, having other Wood sufficient; these and the like voluntary Wastes are Forfeitures *ipso facto*.

Permissive : As if he suffereth his House to decay or fall to the Ground for want of necessary Reparations; or if he suffereth his Meadow for want of mending his Banks to be surrounded, so that it becomes rushy, or worth nothing; or his arable Ground so to be surrounded, that it is become unprofitable; these and the like permissive Wastes are Forfeitures *ipso facto*.

And thus much of Acts which are Forfeitures *eo instante* that they are committed. A Word of those Acts which are said not Forfeitures till Presentment.

And such are those Offences which by common Presumption the Lord cannot of himself have Notice of, without Notice given; as if a Copyholder committeth Felony or Treason.

So if a Copyholder be outlawed or excommunicate, that the Lord may have the Profits of his Copyhold Land, a Presentment is necessary.

So if a Copyholder goeth about in any other Court to intitle any other Lord unto his Copyhold, or if he alieneth by Deed; these and the like ought to be presented.

If a Copyholder maketh a Bargain and Sale of his Copyhold, and it is not inrolled according to the Statute, this is no Forfeiture, no more than a Feoffment without Livery, because nothing passeth.

So if a Copyholder maketh a Feoffment of all his Lands in *Dale*, and maketh Livery in his Charter-Lands; no Part of his Copyhold Land is thereby forfeited; but if Livery be made in any Part of the Copyhold Lands, all his Copyhold Lands are forfeited.

If a Copyholder by Deed of Bargain and Sale inrolled according to the Statute doth bargain and sell all his Lands in *Dale*, having both Copyhold and Freehold, his Copyhold is not thereby forfeited; for the Law will construe this to extend to his Freehold only, rather than by any over-large Construction make a Forfeiture in this Kind.

And if a Copyholder by Deed inrolled, bargaineth or selleth all his Copyhold Lands in *Dale*, or all his Lands in *Dale* generally, having no Freehold Lands; this is a Forfeiture.

Of Forfeitures by Presentment.

Who can-
not forfeit.

Thus I have shewed you what Acts amount to a Forfeiture. Now I will shew you what Persons are able to forfeit.

A Man *non sane memoria*, an Ideot or a Lunatick, tho' they be able to take a Copyhold, yet they are unable to forfeit a Copyhold, because they want common Reason, nay, common Sense.

So an Infant that is under the Age of fourteen is unable to forfeit his Copyhold, because he wanteth Discretion; and till then he is to be in Ward to the next of his Kindred to whom the Inheritance cannot descend, or to the Lord or the Bailiff of the Manor, as the Custom shall warrant.

So a Feme Covert, by any Act she can do of herself, cannot possibly forfeit her Copyhold, because she is not *sui juris*, sed *sub potestate viri*; but if she do any Act which amounteth to a Forfeiture by the Consent of her Husband, this is in her a Forfeiture.

An Infant at the Age of Discretion may forfeit his Copyhold, not by Offences which proceed from Negligence or Ignorance, but by such as proceed from Contempt.

If an Infant come not in to be admitted, according to the Custom, at three solemn Proclamations made at three several Courts, or if he will suffer his Houses to go to Ruin, or his Ground to be surrounded; these Acts, favouring of Negligence only, are no Forfeitures.

So if an Infant Copyholder sueth a Replevin against the Lord upon a Distress lawfully taken, or if he alieneth by Deed, or the like; these Acts, relishing of Ignorance only, are no Forfeitures.

But if he denieth from Time to Time to pay the Lord the Rent, or committeth voluntary Waste, notwithstanding often Warning given him by the Lord; these Acts, proceeding from Malice and Contempt, are Forfeitures; and so if he committeth Felony or Treason.

If a Guardian of a Copyholder committeth Waste, he shall forfeit the Wardship only, not the Inheritance of the Copyhold.

If *Cestuy que use* of a Copyhold committeth Waste, he shall not forfeit the Copyhold.

If the Husband committeth Waste in Copyhold Lands, which he hath in the Right of his Wife, this is a Forfeiture of the Wife's Copyhold.

But if a Stranger committeth Waste without the Consent of the Husband, this is no Forfeiture, tho' the Wife consenteth.

If a Disseisor of a Copyhold committeth Waste, this is no Forfeiture.

So if a Copyhold be surrendered to the Use of J. S. and before Admittance J. S. committeth Waste, this is no Forfeiture; for by the same Reason that he cannot grant before Admittance, he cannot forfeit before Admittance.

If two Jointenants be of a Copyhold, and one committeth Waste, he forfeiteth his Part only; for no Man can forfeit more than he hath granted.

And therefore if there be Tenant for Life with a Remainder over of a Copyhold, and the Copyholder for Life purchaseth the Manor, committeth Waste, or doth any Act which amounteth to the Extinguishment or the Forfeiture of a Copyhold, yet the Remainder is not hereby touched.

And so if a Copyhold be granted to three, *habind. Successive*, whereby the Custom of the Manor this Word *successive* taketh Place; the first Copyholder cannot prejudice the other two by any Act he can do, no more than if a Copyholder in Fee by Licence maketh a Lease for Years by Deed, or without Licence by Copy, and either of these Lessees committeth Waste, the Reversion is not hereby forfeited.

If I have two several Copyholds by two several Copies, and I commit Waste in one; this is a Forfeiture of this only, and not of the other.

And so if I grant these several Copyholds by one Copy, yet they continue several as they did before; and the Forfeiture of the one is not the Forfeiture of the other.

The same Law is, if two several Copyholds escheat to the Lord, and he re-granteth them again by one Copy.

And thus have I shewed what Persons are able to forfeit. I will now in a Word shew what Persons are able to take Benefit of a Forfeiture.

Regularly it is true, that none can take Benefit of a Forfeiture, but he that is Lord of the Manor at the Time of the Forfeiture.

Who to take Advantage of a Forfeiture.

And therefore if a Copyholder maketh a Feoffment, and then the Lord alieneth, neither the Grantor nor the Grantee can take Benefit of this Forfeiture; for neither a Right of Entry nor a Right of Action can ever be transferred from one to another. And therefore if a Freeholder alieneth in Mortmain, and then the Lord granteth away his Seigniori, neither the one nor the other can ever take Benefit of this Forfeiture.

So if a Lessee for Life committeth Waste, and then the Lessor granteth away the Reversion; this Waste is made punishable.

But if Tenant for Life be of a Manor, with Remainder over in Fee to a Stranger, if a Copyholder committeth Waste, and then Tenant for Life of the Manor dieth before Entry, yet he in Remainder may enter; for he had an Interest in the Manor at the Time of the Forfeiture committed, though he could not enter by Reason of the State in Tenant for Life, which being determined, his Entry is now accrued unto him for the Forfeiture committed in the Life of Tenant for Life.

And sometimes he that is neither Lord of the Manor at the Time of the Forfeiture committed, nor ever after, shall take Benefit of a Forfeiture.

As if a Lord of a Manor granteth a Copyhold in Fee, and then granteth the Frank-tenement or the Inheritance of this Copyhold to a Stranger; the Grantee, though no Lord of the Manor, nor able to keep any Court, shall take Benefit of Forfeitures made by the Copyholder, as if the Copyholder do make a Feoffment, Lease, Waste, deny the Rent, &c.

Thus have I shewed what Persons are able to take Benefit of a Forfeiture. I will now in one Word shew what Acts amount to a Confirmation of an Estate forfeited.

What dispences with a Forfeiture.

If the Lord doth any Thing whereby he doth acknowledge him his Tenant after Forfeiture; this Acknowledgement amounteth to a Confirmation; as if he distraineth upon the Ground for Rent due after Forfeiture, or if he admitteth after the Forfeiture, or the like; these are Estoppels to the Lord, so that he can never enter, so the Lord have Notice of such Forfeitures before any such Act which may amount to a Confirmation be done. Yet some make this Difference, that these Forfeitures only which destroy not the Copyhold are confirmable by subsequent Acknowledgement, and not those Forfeitures which tend to the Destructions of a Copyhold; as if the Copyholder maketh a Feoffment, by this the Copyhold is destroyed, and therefore no subsequent Acknowledgment of the Lord will ever save this Sore.

If any Freeholder refuseth to do Homage or Fealty, which are corporal Services of Submission; or to mend Highways, repair decayed Bridges, or *similia*, which are corporal Services tending to the publick Profit of the Commonweal; or to discharge the Office of a Carver, a Butler, a Brewer, or such like, or to pale the Lord's Park, to tile the Lord's Houses, or to thatch his Barns, or *similia*: which are corporal Services tending to the private Profit of the Lord; if, I say, any Freeholder refuseth to do any of these Services, being bound unto them by his Tenure, then may the Lord lawfully distrain his Cattle or his Goods, and detain them, until Satisfaction be given by performing such Services as the Law doth require. And the same Remedy which the Law hath provided for corporal Services, is likewise provided for annual Services.

For if any Freeholder refuseth to pay any annual Rent, or to discharge any annual Payment, according to his Tenure; then may the Lord lawfully distrain, and in a Replevin brought by the Tenant, may avow the Distress, and justifie the taking. But no Action of Debt will lie for these annual Services, no more than for corporal Services: For it is a Ground in Law, that as long as the Rent continueth of any Estate or Frank-tenement, no Action of Debt lieth for the Arrearages of the Rent, nor for any other Service whatsoever.

Acci-

Accidental Services are gotten by many differing Means. Accidental Services, how got.
 1. By Seizure only, as the Wardship of the Heir's Body, together with the Waifs, Estrays, Wrecks, Deodands, and such like Forfeitures of Goods. 2. By the Entry only, as the Wardship of the Heir's Land, together with Lands forfeited to the Lord, either upon the Breach of some Condition, or upon an Alienation in Mortmain. 3. By Seizure or Distress, as Heriot-Services, contrary to the Opinion of some who held them gainable by Distress only, and not by Seizure. 4. By Action, as Heriot-Customs; for upon the Eloignement of the best Beast the Lord may maintain an Action of Detinue against the Heir. 5. By Entry or Action, as Lands forfeited to the Lord by the cessing of his Tenant, or Escheat accruing unto the Lord, either upon the Attainder or Death of his Tenant without Heir: In the first, the Lord may enter or maintain a Writ of *Cessavit*; in the second, the Lord may enter or maintain a Writ of *Escheat*. 6. By Distress or Action, as Reliefs and Amerciaments. For Reliefs the Lord may distrain, or bring an Action of Debt. Neither doth this any whit impugn the former Ground, that as long as the Rent doth continue, &c. because indeed Relief is the Fruit and Approvement of Services, rather than any Service. And for Amerciaments the Lord may either distrain or bring an Action of Debt.

S E C T. IV.

Of the Rights of the Tenant, and the Engagements of the Lord.

THE Rights of the Copyholder will best appear by enquiring into the Interest Copyholders have in their Estates; and that will appear to be very strenuous; for although customary Tenants are termed in Law, Tenants at Will, yet they are not simply so, nor merely Tenants at Will, for every Copyholder is but only Tenant at Will *secundum consuetudinem Manerii*, which Custom warrants his Possession, and therefore it is a more certain Estate than an Estate at Will; for the Copyholder may justifie against his Lord, so cannot a Tenant at Will, whose Estate is determined at the Will and Pleasure of his Lessor: And although his Estate is but by Custom, and by no Conveyance the Estate is raised, it is as material, so as it be an Estate: And this Estate being supported by Custom is known in Law an Estate, and so accounted in Law: And the

What Interest a Copyholder hath in his Estate.

same Law hath notably distinguished Copyhold Tenancies by Custom, and Tenancies at Will by the Common Law: For a Copyholder shall do Fealty, shall have Aid of his Lord in an Action of Trespass, shall have and maintain an Action of Trespass against his Lord, his Wife shall be endowed, the Husband shall be Tenant by the Courtesy without any new Admittance, but this is by Custom, and only in some Manors.

8 Eliz.

And it was adjudged in the Common Pleas, 8 Eliz. That if a Copyholder surrender to the Use of another for Years, the Lessee dieth, his Executors shall all have the Residue of the Term without any Admittance. Mich. 14 & 15 Eliz. A Copyholder made a Lease for Years by Indenture, warranted by the Custom: It was adjudged, That the Lessee should maintain *Ejectione firma*, although it was objected, that if it were so, then if the Plaintiff doth recover, he shall have *Habere facias possessionem*, and then Copyholds should be ordered by the Laws of the Land. 10 Eliz. Lord and Copyholder for Life, the Lord grants a Rent-charge out of the Manor, whereof the Copyhold is Parcel, the Copyholder surrenders to the Use of A. who is admitted accordingly, he shall not hold it charged; but if the Copyholder dieth, so that his Estate is determined, and the Lord granteth to a Stranger *de novo*, to hold the said Land by Copy, this new Tenant shall hold the Land charged. Leon. Rep. Part 1. fol. 8. Mich. 25 & 26 Eliz.

Leon. Rep.
1 Part
f. 8. Mich.
25 & 26
Eliz.

Copyhold-
er and Te-
nant at
Will.
Bulst.
Part 1.
fol. 51.

Tenant by Copy of Court-Roll hath an Inheritance by the Custom; but when he doth that which is contrary to the Custom, he shall be then in no better Condition than a bare Tenant at Will. Bulst. Part 1. fol. 52. so that performing the Duties and Services according to the Custom, doth so establish and fix the Estate, that the same by the Custom of the Manor is descendible, and his Heirs shall inherit the same; and therefore his Estate is not merely (as I have said before) *ad voluntatem Domini*, but *ad voluntatem Domini secundum consuetudinem Manerii*; so that the Custom of the Manor is the Soul and Life, and also the chief Basis upon which stands the whole Fabrick of Copyhold Estates; for without Custom, or if they break their Custom, they are subject to the Lord's Will.

W
flor
Bulst.
at that to
appt 3 aid

7 E. 4.

And by Custom a Copyholder is as well inheritable to have his Land according to the Custom, as he who hath a Freehold at the Common Law, for *Consuetudo est altera Lex*, Custom and Usage Time out of Mind, &c. may create and consolidate Inheritances, *Consuetudo vincit legem*. 7 E. 4. Danby Chief Justice said, That a Copyholder is as well inheritable to have his Land according to the Custom, as he who hath Freehold at the Common Law. Co. 4. 21.

Tenant
may have
an Action
of Tres-
pass a-
gainst the
Lord.

If Tenant by Custom paying his Services be ejected by his Lord, he may have an Action of Trespass. 21 E. 80. Co. 4.

73. and if of Copyhold Estate, which is not a Freehold

If a Woman Copyholder in Fee have a Husband, who hath Issue, and the Wife dieth, the Husband shall not be Tenant by the Courtesy, without special Custom. *Co. 4. 22.*

No Tenant by the Courtesy without special Custom.

If a Copyholder die, his Heir within Age, the Heir is not obliged to come to any Court, during his Nonage, to pray Admittance, or to render his Fine. Also if the Death of the Ancestor be not presented, nor Proclamation, it is not any Detriment, although he be of full Age. *Leon. Rep. Part 1. fol. 128. Pasch. Eliz. B.R.*

The Heir of a Copyholder not bound to come to any Court during his Nonage.

Brownl. Rep. Part 1. fol. 231. Swain and Becker. A Question was, That whereas there is a Manor wherein are Copyholders for Life, who used to lop Trees growing upon the Copyholds, for their necessary Fire, and Repair of their customary Tenements, the Lord of the Manor maketh a Lease of the Manor for Years, excepting the Trees. The Lessee of the Manor granteth a Copy for Life, the Copyholder loppeth his Trees growing in his Copyhold; whether or no he might do it by Law was the Doubt of the Jury. And it was held by all the Court. *Hill. 6 Jac.* that the Copyholder might lop the Trees, because he is in by the Custom which is above the Lord's Estate after he is admitted, and that the Copyhold depends not upon the Lord's Interest: And that the Trees excepted, and the Soil remained Parcel of the Manor, because the Lease was but for Years: But if the Lease had been for Life, it had been otherwise, because it had been severed from the Manor.

Whether or no a Copyholder may lop Trees.

But Note, That in *Justice Crook's Reports, Part 1. fol. 160.* That a Copyholder for Life may cut down and sell Timber-Trees, and dispose of them at his Pleasure, is a void and unreasonable Custom, and not allowable by Law; for it is a Destruction of the Inheritance, and against the Nature of a Copyholder for Life. For a Copyholder hath but a particular Estate in the Land, and so he hath in the Trees. And it is unreasonable that he should cut down, sell and destroy the Inheritance, and it would be to the great Prejudice of those who succeeded, for they should not have to maintain the House and the Plough. And it is against the Nature of the Estate that he should do Acts in Destruction of his Estate; therefore Customs which maintain them are allowable, but not *converso*; *Vide 24 Ed. 3. Barr. 77. 21 H. 7. 40. 11 H. 7. 14. 9 H. 4. Waste 59.*

Copyholder for Life cannot claim Custom to cut down and sell Trees.

If a Copyholder of Inheritance sell his Copyhold to one of his Heirs, this shall descend; and no Tenant by the Courtesy, nor yet Dowry, shall be thereof, without a special Custom for the same. *Bull. Part 2. fol. 275. Mich. 12 Jac.*

No Tenant by the Courtesy nor Dowry shall be of Copyhold Lands. *Leon. Rep. Part 1.*

If I give all my Lands, Tenements and Hereditaments in D. my Copyholds do not pass. *Leon. Rep. Part 1. 126.*

An Estate-tail cannot be of Copyhold Lands without Use. *Grb. Part 1. fol. 31. & 32. Poph. fol. 38.*

An Estate-tail cannot be of Copyhold Lands, unless it be in Case where it hath been used; for the Statute *de donis conditionalibus* shall not enure to such customary Lands, but to Lands which are at Common Law; and therefore an Estate-tail cannot be of those customary Lands, but in Case where it hath been used Time out of Mind. *Poph. fol. 34.* And it was holden afterwards, that an Estate-tail was wrought out of Copyhold Land by the Equity of the Statute *de donis conditionalibus*, for otherwise it cannot be that there can be any Estate-tail of Copyhold Land, for by Usage it cannot be maintained, because that no Estate-tail was known in Law before this Statute, but all were Fee-simple; and after this Statute it cannot be by Usage, because this is the Time of Limitation, after which an Usage cannot make a Prescription, as appeareth 22 & 23 *Eliz.* in *Dyer*.

And by 8 *Eliz.* a Custom cannot be made after *Westm.* 2. And what Estates are of Copyhold Land, appeareth expressly in *Littleton* in his Chapter of *Tenant by Copyhold*, &c. And in *Brook*, Title *Tenant by Copyhold*, &c. 15 H. 8.

In both which it appears, that a Plaintiff lieth in Copyhold Land in the Nature of a Formedon in the Descender at the Common Law, and this could not be before the Statute *de donis conditionalibus* for such Land, because that before that Statute there was not any Formedon in the Descender at Common Law, and therefore the Statute helps them for their Remedy for intailed Land, which is but customary by Equity.

And if the Action shall be given by Equity for the Land, why shall not the Statute by the same Equity work to make an Estate in Tail also of this Nature of the Land? *Poph. ibid.*

And Copyholds are now become by Usage of such Estates, that Laws allow them to be good against the Lords themselves, they performing their Customs and Services, and therefore are guided by the Guides and Rules of the Common Law. *Dyer Trin. 12 Eliz.* And to say, that Estates of Copyhold Land are not warranted but by Custom, and every Custom lies in Usage; and without Usage a Custom cannot be, is true; but in the Usage of the greater, the lesser is always implied, *omne majus in se continet minus*: As by Usage three Lives have been granted by Copy of Court-Roll, but never within Memory, two or one alone, yet the Grant of one or two Lives only is warrantable by this Custom: For the Use of the greater Number of Lives, warrants the lesser Number, but not *per converso*.

If the Copyholder by his Letter of Attorney appoint the Son of his Farmer his Attorney, to do the Services for him due for his Copyhold; such a Person so constituted and appointed, may esjoin for the Copyholder, but not do the Services

A Copyholder may assign one to esjoin for him, but not to do his Service.

vices for him ; for none can do the same but the Tenant himself. *Leon. Part 1. fol. 139.*

Copyhold Land is not extendable upon a Statute-Staple, but upon the Statute of Bankrupts it is extendable. *Brownl. Part 1. 34.* As long as a Copyhold of Inheritance is in the Tenant's Hands, it is not liable to any Estate or Charge of the Lord ; as Dower, Courtsey, *Elegit*, Statute, &c. But when it is in the Lord's Hands, it is liable. *Co. 4. 22.* But a Custom in this Case may make it chargeable. *Calibr. 88, 89, 92, 93.*

Copyhold not extendable by Statute-Staple, but the Statute of Bankrupts. Not liable to any Charge of the Lord, &c.

A Copyholder need not to alledge a Custom to make a Surrender, or to lease his Copyhold Land for a Year, for by the general Custom of England Copyholders may do so ; if a Copyholder that is Heir dwell at London, the Lord of the Copyhold Manor may make the customary Proclamations for the Heir to come and be admitted, and if he omit to come and be admitted, and if he refuse or neglect to come, the Lord may seize the Lands ; but this is only a Seizure *quousque* he come in, and not properly a Forfeiture.

Copyholder by Surrender or by Nomination, by Force of a Custom precedent, desires his Lord at his Court to admit him to the Copyhold Estate, and offers him his Fine, the Lord refuses, he cannot take the Profits before Admittance, here is *damnum & injuria* : Whether for Refusal he may have an Action of the Case or not ? And it was resolved, *Pasch. 13 Jac. B. R.* That an Action of the Case lies not against the Lord for his Refusal to admit him, without a special Custom or Prescription for the same, *Omnia innuatio plus novitate perturbat, quam utilitate prodest* ; for if upon every such Refusal an Action shall be brought, this will introduce many Inconveniencies. *Co. 4. 22. in Brown's Case.* But note, That in all Cases of Ministerial Offices, if they refuse to do their Offices, Actions upon the Case shall well lie against them, as against the Clerk of the Inrollments, if he refuseth to enrol a Deed, an Action on the Case lies, but the Law is otherwise in Places of Trust. *2 Ball. 337.*

Upon a Surrender Action lies not against the Lord for refusing Admittance.

In ministerial Offices Action lies against him that will not do his Office, but not so in Cases of Trust.

C H A P. III.

Of Courts-Baron and Courts of Survey.

IN Courts-Baron two Things seem considerable, *viz.* its Members and their Duty, and the Jurisdiction of the Court, and the Manner 'tis held; of which we will discourse in this Chapter, and conclude the same with select Precedents of such Things as concern it.

Of what
it consists,

This Court-Baron appertaining to a Manor consisteth of four special Parts, *viz.*

1. The Lord.

2. The Steward.

3. The Tenant.

4. The Bailiff.

It is defined to be an Assembly of these Parts together with, in the same Manor; and it is likewise duplicate, *viz.*

The Design
of this
Court.

1. The first is for the taking Care, Counsel, and Inquiry of Causes concerning the same Manor; as for the Trials or Titles of the Land, and taking and passing of Estates, Surrenders, Admittances and Grants, and to see Justice duly executed, and the Acts and Ordinances there done to be recorded in the Rolls of the same Court, which Rolls are the Evidences of all Ordinances, Duties and Customs, and Conveyances between the Lords and the Tenants of the same Manor, and are to be entred by the Steward, or an Officer indifferent between the Lord and his Tenants, and the same Rolls to remain with the Lord, thereby to know his Tenants, his Rents, his Fines, his Customs, and his Service. And the particular Grant of every Copyhold, to be copied out of the Rolls, and the Copies thereof to be delivered to every particular Tenant, neither can they make any other Title to their said Tenements, but by their said Copy; and this is called the Copyholder's Court, and herein the Steward is Judge.

2. The

2. The other is for the Trial of Actions under the Sum of forty Shillings, of the Nature of the County-Court, of which we have copiously treated in the first Part of this Work, and therefore here not necessary. And herein the Freeholders are Judges. But to return to the Copyholder's Court.

These Courts differ from Courts-Leet in divers Respects. 1. In this, that Courts-Baron by the Law may be kept once every three Weeks, or (as some think) as often as it shall please the Lord; though for the better Ease both of Lords and Tenants they are kept but very seldom: But a Court-Leet by the Statute of *Magna Charta* is to be kept but twice every Year; one Time within a Month after *Easter*, and another Time within a Month after *Michaelmas*. 2. In this, that Courts-Baron may be kept in any Place within the Manor, (contrary to the Opinion of *Brian*) but a Court-Leet by the Statute of *Magna Charta* is to be kept in *certo loco ac determinato* within the Precinct. 3. In this, that originally Courts-Baron belonged unto inferiour Lords of Manors; but Courts-Leet originally belonged unto the King. 4. In this, that Courts-Baron are incident unto every Manor, so that every Lord of a Manor may keep a Court-Baron; but few have Leets: For inferiour Lords of Manors cannot keep Court-Leets without special Prescription, or some special Patent from the King. 5. In this, that in Courts Baron the Suitors are Judges; but in Court-Leets the Steward is Judge. 6. In this, that in Courts-Baron the Jury consisteth oftentimes of less than twelve, in Courts-Leet never. The Reason of that is, because none are impanelled upon the Jury in Courts-Baron but Freeholders of the same Manor; but in Courts-Leet Strangers are oftentimes impanelled. 7. In this, that Courts-Baron cannot subsist without two Suitors *ad minimum*; but Courts-Leet can well subsist without any Suitors. 8. In this, that Courts-Baron enquire of no Offences committed against the King; but Courts-Leet enquire of all Offences, under High Treason, committed against the Crown and Dignity of the King. In many other Respects they differ: As that a Writ of Error lieth upon a Judgment given in a Court-Leet, but not in a Court-Baron, So in a Court-Leet a *Capias* lieth; but in a Court-Baron, instead of a *Capias*, is sued an Attachment by Goods. So in a Court-Baron an Action of Debt lieth for the Lord himself, because the Suitors are Judges; but in a Court-Leet the Lord cannot maintain any Action for himself, because the Steward is Judge.

How
Courts-
Baron and
Leets dif-
fer.
*Magna
Charta*,
c. 35. 31
E. 3. c. 15.

Five Things are necessarily appertaining to a Manor.

THere are five Things necessarily appurtenant to a Manor and Court-Baron, viz.

1. The Lord is chief to command and appoint,

2. The Steward to direct and record,

3. The Freeholders to assize and judge,

4. The Copyholders to inform and present,

5. The Bailiff to attend and execute, &c.

And all these united make a perfect Execution of Justice, and Judgment in Courts-Baron; and without all these a Court-Baron cannot be held in its proper Nature, in Respect of all Causes appertaining to the perfect Jurisdiction of a Court-Baron. But to make a more particular Demonstration of their distinct Authorities and Offices.

Of the Lord.

1. And first of the Lord, as he is chief in Place, so in Authority, and he officiateth in three several Places, viz. the one of a Chancellor, in Cases of Equity; the other of a Justice, in Matter of Right; and the third of himself, in Cases proper and particular to himself.

Of the Steward.

2. The Steward doth act the Part of several Persons, viz. Judge and Orderer in Cases of Copyhold; and also a Minister and Register to record and enter Things into the Court-Rolls, and in both these to be indifferent between the Lord and his Tenants.

The Freeholders.

3. The Freeholders do likewise execute two Parts, that is, to assize, and judge Amerciaments, and to return and certify Judgments.

The Copyholders.

4. The Copyholders hold two distinct Places, viz. to inform Offences committed against the Lord within the Manor, and to present such Things, as shall be given in Charge by the Steward.

The Bailiff.

5. The Bailiff officiates two Parts, viz. to execute the Process, and Mandates of the Court, and also to return into the Court the Execution of the same Process, *Et quod sit ita justus, quod ob vindictam vel cupiditatem non querat versus tenentes Domini, vel aliquos sibi subditos, occasiones injustas, per quas destrui debeant seu graviter amercari.*

Fleta, lib. 2. cap. 73.

The Lord's Authority consisteth chiefly in these Things.

The Lord's Authority.

1. In punishing Offences and Misdemeanors committed within his Precincts; as not Performance of Customs, Breach of By-Laws, not discharging of Duties, and such like.

2. In

2. In deciding Controversies arising about the Title of Copyhold Land lying within his Bounds; and when he sitteth as Judge in Court to end Debates of this Nature, he is not tied to the strict Form of the Common Law; for he is a Chancellor in his Court, and may redress Matters in Conscience upon Bill exhibited, where the Common Law will afford no Remedy in the same Kind; as to insist in one familiar Example. If I surrender a Copyhold to the Use of a Stranger, upon Confidence that such Debts being by me discharged, he shall surrender back this Copyhold; I upon Discharge of the Debt demand a Surrender, and he refuseth; at the Common Law I were left remediless, this being a bare Confidence, and no Condition; but upon Bill exhibited in the Lord's Court I shall be relieved; for the Lord upon Proof of the Matter may seize the Copyhold, and re-admit me, according to the Effect of the Confidence.

2. In admitting Copyhold. And in this customary Power of Admittance the Lord doth somewhat outstrip the Steward; for the Lord may make either Admittances upon voluntary Grants, Admittances upon Surrenders, Admittances upon Descents, in any Place where he pleaseth out of the Manor, but so cannot the Steward: And in giving Licence to Copyholders to alien by Deed; and in his Point of Licence the Lord's Authority doth exceed the Steward's Authority. For though some are of Opinion, that it is both usual and warrantable for the Steward of a Manor, in Absence of his Lord, to license a Copyholder in full Court to alien by Deed for as many Years as he shall think good, because he is Judge in the Court, and besides the Entry of it in the Court-Roll is in this Manner, *Ad hanc Curiam J. S. petit licentiam Domini dimittendi, &c. Cui Dominus licentiam dat, &c.* and therefore this Licence being granted in the Lord's Name in full Court, the Lord shall never enter for a Forfeiture, but shall ever be estopped to say the contrary, but that he did give Licence: yet (under Reformation be it spoken) I must mistrust the Truth of this Opinion; for this Power of licensing Copyholders to alien by Deed is not customary, for then it were as proper to the Steward as to the Lord; but it is a Power of Interest annexed to the Person of the Lord in Respect of his Estate in the Manor, and not in any other collateral Respect; and therefore the Steward having a bare Authority to execute what the Custom of the Manor doth warrant, *sans* Doubt he cannot *virtute officii* grant any unwarrantable Licence to alien by Deed, no more than to commit Waste; for the one Act as well as the other tendeth to the Breach of Custom, and both of them, without a sufficient Allowance, amount to the Forfeiture of a Copyhold; but by express Words in the Steward's Patent, or by special Authority given him by the Lord, or by some particular Custom warranting the same, the Steward

ard may in Court lawfully license Copyholders to alien as well as the Lord may.

Of the Office and Duty of the Steward.

*Co. super
Litt. f. 61.
a. b.*

*Coke's Co-
pyholder,
Sect. 45.*

*Fleta, l. 2.
cap. 26.*

STeward in Latin is called *Seneschallus*, and is derived from the French Word *Sein*, a House or Place, and *Schale*, an Officer or Governour; some say that *Sen* is an ancient Word for Justice, so as *Seneschal* should signifie *Officiarius justitie*.

As to the Word *Steward*, it seemeth to be compounded of *Stew* and *Ward*, and is a Word of many Applications; yet always signifies an Officer of chief Account within the Place of his Sway. In this Place it signifieth an Officer of Justice, viz. A Keeper of Courts, &c. therefore for the Prevention of many Inconveniencies, it would be no Disadvantage to Lords to elect and constitute such as are exercised in the Studies of the provincial Laws of this Commonwealth, and the Customs of Manors. *Fleta, lib. 2. cap. 26.* describes the Office of a Steward, and counselleth Lords of Manors and Liberties to provide or elect their Stewards in these Words, *Provideat sibi Dominus de Seneschallo circumspetto, & fideli, viro provido, & discreto & gratiofo, humili, pudico, pacifico & modesto, qui in legibus consuetudinibusque provincie & officio seneschalli se cognoscat, & jura Domini sui in omnibus teneri affectet, &c. cujus officium est curias tenere Maneriorum, & de subtractionibus consuetudinum, servitiorum, reddituum, scollarum ad curiam, mercata, molendina Domini, & ad visus Franci-plegiorum, aliarumque libertatum Domino pertinentium inquirat, &c.* By which Description it is observed, that he ought to have a double Qualification, viz.

1. *In Moralibus.*
2. *In Judicialibus.*

1. *In Moralibus*, he must be qualified with these Properties, viz. Circumspection, Fidelity, Providence, Discretion &c. which may be reduced to two general Heads, to wit, *Verity* and *Industry*.

2. *In Judicialibus*, and therein he must be attended by the Property of Knowledge, as to be expert in the Laws of the Country, and the Customs of the Manor, and have Ability to instruct and direct the Bailiffs, and other Ministers in dubious Things.

Let us now descend to demonstrate his Retainer into Office, &c.

A Lord of a Manor may by Parol retain one to be Steward of his Manor, and to hold the Courts thereof, as well as a Bailiff may be, and that by Word, and this Retainer shall be as effectual in all Points before Discharge as the most effectual Institution by Patent; yet most commonly they have Patents for their Office. *Co. 4. 30.* and therewith accordeth *8 Eliz. Dyer 248.* Likewise it was adjudged in the Common Pleas in the Lady Julian Holcroft's Case, that whereas one was generally retained by the Lord of a Manor by Parol to be Steward of a Manor, and to keep his Courts, that such Steward may make Surrender of customary Tenants out of the Court, or make voluntary Admittances, or any other Act incident to the Office of a Steward, for till such Steward be discharged, he is Steward of the Manor, as well by the Retainer by Word as if he had a Grant thereof by Patent. *Leon. fol. 309. Coke's fol. 309. Copyholder, Sect. 45.*

How he may be retained.
Co. Rep. 4. 30. Dyer 8 Eliz. 248.

He represents the Person of the Lord in many Things, for in the Absence of the Lord he sitteth in Court as Judge to punish Offences, to determine Controversies, redress Injuries, &c. He acts some Things in the Lord's Name, and not in his own Name: For if the Steward admit any Copyholder, or by special Authority, or by partiular Custom, licence a Copyholder to alien, this Admittance and Licence shall be made in the Lord's Name, and the Entry in the Roll shall be, *Quod Dominus Seneschallum admisit & licentiauit, &c.* *Coke of Copyholds, fol. 143.* See *4 Co. fol. 30.*

Co. 4. Of Copyholds, fol. 143.

He must take Care to record and inroll all the Conveyances of Estates; for it hath been holden by some, That if the Lord in open Court grant a Copyhold Estate, and no Entry is made thereof in the Court-Rolls, that the Grant is invalid, and that no collateral Grant will make it valid. *Calb. fol. 57.* But if the Tenant have no Copy, or lose his Copy, the Roll of the Court is a good Evidence; and if the Wills be lost, it is thought clearly it may be supplied by Proof. *Ibid.*

Carth. fol. 47.

At every Court he is to swear some of the Tenants (which is called the Homage) these he chargeth with the Articles before-mentioned, and upon them they do present: and upon this Presentment the Steward is to proceed as upon the Presentment in a Leet, save only that (as it is said) the Lord cannot bring an Action of Debt, but is only to distrain for the Amerciament in this Court. *2 H. 4. 24.* For by the Common Law he hath no Authority to assess Amerciaments or Fines in a Court-Baron, but the Suitors, for they are the Judges, and not the Steward. *Leon. Rep. Part 1. 209.*

2 H. 4. 24. Leon. Pr. 1. fol. 299.

The Law is not very curious in examining the Imperfections of the Steward's Person. nor the Unlawfulness of his Authority; for be he an Infant, or *non compos mentis*, an Idiot or Lunatick, an Outlaw, or an Excommunicate, yet what Things

Things soever he performeth as incident to his Place, can never be avoided for any such Disability, because he performeth them as a Judge, or at least as Custom's Instrument: and for his Authority, though it prove but Counterfeit if it come to exact Trial, yet if in Appearance or outward Shew it seemeth currant, that is, sufficient. As if I grant the Stewardship of my Manor of *Dale* by Patent; and in the Patentee's Absence a Stranger by my Appointment keepeth Court, this is authentical. If a Grant of a Stewardship be made to one, and for some Fault or Defect in the Grant it is avoidable, yet Courts kept by him before the Avoidance shall stand in Force; and whatsoever he did as Steward is ever unavoidable. As if a Corporation retaineth a Steward by Parol, and he keepeth a Court, punisheth Offences, decideth Controversies, taketh Surrenders, maketh Admittances either upon Surrenders, or Descents; these Acts being judicial shall ever stand for currant, though his Authority be grounded upon a wrong Foundation, for a Corporation cannot institute any such Officer without Writing. And so if the King's Auditor or Receiver retain a Steward by Parol, he may lawfully execute any judicial Act; but Things which he performeth as Custom's Instrument, not as Judge, such as are voluntary Admittances, neither in the Retainer by the Corporation, nor in this Retainer by the King's Officers, shall any whit bind; but if a Stranger, without the Appointment of the Lord, or Consent of the Right Steward, or without any Colour of Authority, will of his own Head come into a Manor, and keep a Court; it seemeth that the Performance of any judicial Duty, or the executing of any Act whatsoever, will not be warranted, especially if the Court be kept without Warning given to the Bailiff by Precept, according to the Custom.

Forfeiture
of a Stew-
ardship.

The Office of a Steward may be forfeited three manner of Ways.

1. By Abuser.
2. By Non-user.
3. By Refuser.

1. By Abuser. As if the Steward burn the Court-Rolls, or if he taketh a Bribe to wink at any Offence, or use Partiality in any Cause depending before him; these and the like Abuses will make him subject to a Forfeiture.

2. By Nonuser. As if the Steward by his Patent being tied to keep Court at certain Times of the Year, without Request to be made by the Lord, faileth, and by his Failure the Lord receive any Prejudice, this is a Forfeiture. But if the Lord be not damnified, then this Nonuser is no Forfeiture.

3 By

By Refuser the Office of a Steward may be thus forfeited: If the Steward be tied by his Patent to keep Court upon a Demand or Request to be made by the Lord, if the Lord demandeth or requesteth him to keep a Court, and he faileth; this is a Forfeiture, though the Lord be thereby nothing damaged. And thus much of a Steward.

The Under-Steward is the Steward's Deputy, and some times appointed by Writing, and sometimes by Parol; and the Extent of his Authority is as great as the Steward's own Authority, and his Office consisteth in Performance of the self-same Duties that the High Steward himself is to perform; only in this Point the Power of the Steward goeth beyond the Power of the Under-Steward, that the Steward can make an Admittance out of Court, and it shall stand good, if Entry be made in the Court-Roll, that he that is admitted hath paid his Fine, and hath done Fealty; but the Under-Steward, tho' he may take a Surrender out of the Court, yet he cannot make any Admittance out of Court, without special Authority, or particular Custom.

In Admittances made by Under-Stewards, as well as in Admittances made by the Stewards themselves, it is good Order to express in the Copy, and in the Court-Roll, the Name of the Under-Steward or the Steward; because in pleading any Admittance, a Man must say, That he was admitted by such a one Under-Steward, naming his Name.

Of the Time when, and Place where, this Court is to be kept.

THE usual and accustomed Time is to keep it once every three Weeks; and altho' no Court hath Time out of Mind been holden within the Manor, yet it is not thereby extinct and lost, for it is incident to a Manor of Common Right. *Co. l. 4. 26. and 6. 27.* And as to the Place where it is to be kept, it must be kept and holden in any Place within the Manor, as the County-Court, in any Place within the County, and Hundred-Court, in any Place within the Hundred: For as to every Manor a Court is requisite and incident to it; so it is transitory throughout the whole Manor, and every Part of the Demesnes of the Manor is capable of a Court to be holden there. But if it be holden out of the Manor, it is void, unless a Lord being seized of two or three Manors, and hath usually, Time out of Mind, holden at one of his Manors, Courts for all his said Manors, there by Custom such Courts are sufficient in Law, if they be not holden within the several Manors.

*Co. l. 4. 26.
& 6. 27.
Owen's Rep.
f. 35. Mic.
13 & 14
Eliz. Le-
nard's Rep.
133. Marsh
against
Smith. Co.
4. f. 24.
Murrel and
Smith, and
f. 27. Clif-
ton's Case.*

The Manner and Method of keeping the Court.

After the Eſſoins are entred, make Proclamation, That if any one will enter any Plaint, that he come forth and ſhall be heard; and if any come enter the Plaint thus:

A. B. queritur de C. D. de placito debiti 39 s. 11 d.

A. B. queritur de E. F. de placito Tranſgr. ſuper caſum ad damnum 30 s. 10 d.

C. D. queritur de G. H. de placito quod reddat bona & caſtella ad valentiam 28 s.

H. J. queritur de J. S. de placito Tranſgr. & Inſult. &c. ad damnum 30 s.

Then examine the Rolls, and if there be any old Plaints depending in them, call for the Parties.

Then enter the Amercements thus;

6 d.

6 d.

6 d.

6 d.

6 d.

A. B. Miles, C. D. Arm^s, E. F. Vid. G. H. & J. K. Quilibet eorum amercietur ad hanc Cur^a per Homagium quia non comperuit ad hanc Cur^a ad faciend^u ſeckam Cur^a ad ſex denar^u prout paret ſuper eorum ſeparatib. capitibus.

M. H. Vid. quia non comperuit ad hanc Cur^a ad faciend^u ſeckam Cur^a ac in faciend^u ſeckam Cur^a deſicit per quamplurimos annos jam ultimos elapſos amercietur per Homag. ad decem ſolid.

W. S. amerciet^r per Homagium quia ſuccidit quinque alnos in mora de S. ad unum ſolid^u.

Then command the Bailiff to call the Jurors.

Jurors	J. D.	} Jur.	C. D.	} Jur.	A. B.	} Jur.
	R. R.		H. I.		C. D.	
	S. T.		K. L.		E. F.	
	U. W.		M. N.		R. P.	

Then call the Foreman to the Book, and ſwear him after this Manner:

The Foreman's Oath.

You ſhall ſwear that you as Foreman of this Homage, with the reſt of your Fellows, ſhall duly enquire, and true Preſentment make of all ſuch Articles and Things as ſhall be given you in Charge, and therein you ſhall ſpare no Man, for Love, Favour, or Affection, nor preſent

present any Man for Malice, Hatred or Envy, but according as Things here presentable, shall or may come to your Knowledge, by Information or otherwise: So shall you make thereof true Presentments without Concealment. So help you God.

The Foreman being sworn, call the rest by their Names, and swear them, by four at a Time, in this Manner :

The same Oath that J. D. your Foreman, hath taken before you on his Part, you and every one of you shall observe and keep on your Parts. The Oath of the rest.
So help you God.

After the Inquest is thus impanelled and sworn, make another Oyes, and say ;

You good Men that are impanelled, draw near, and you, and all other, keep Silence during the Charge. Proclamation.

And then proceed to give a Charge, which may be in the following Terms.

Gentlemen of the Homage,

WE are here met on a very solemn Occasion ; 'tis to hold a Court of Justice ; nor is there any of you here that are not bound by your Oath, as well as by your Tenure, to the due Discharge of your severat Duties. How sacred a Tie an Oath is, how unpardonable a Crime is Perjury, I believe none here are Ignorant ? I shall therefore on this Occasion discourse to you on three Heads, which are more agreeable to my Station, and on which my Instructions may be necessary :

First, I shall endeavour to shew you to what you are bound by your Oath.

Secondly, I shall inform you of the Origin, Antiquity, and Authority of this Court.

And *Lastly,* Of the Articles of which you, Gentlemen, who are now sworn of the Homage, are more particularly obliged to enquire into.

I have already observed, That all the Tenants of this Manor, the Members of this Court, are under the Obligation of an Oath ; this you all must be sensible of, having sworn Fealty, that is, to be faithful to the Lord of this Manor, and pay, perform and do, all the Rents, Customs and Services, due and accustomed, and at the Times assigned.

The Part of a faithful Tenant, is not only to do his personal Duty, but also to disclose and make known to the Lord, or me, his Steward, or to those that are now, and from Time to Time shall be sworn of the Homage, every Thing that he knows, the Knowledge whereof may be of Service, or the Concealment, an Injury or Detriment to the Lord; this Obligation is common to all the Tenants, and at all Times: But the Duty of you Gentlemen, that are now sworn of the Homage, goes farther; for you are obliged by the very Terms of the Oath I so lately administered to you, diligently to inquire of all such Things as shall be given you in Charge.

The second Thing I proposed to be the subject of my present Discourse, was the Origin of Manors, and the Antiquity and Authority of this Court. A very extensive Subject, not only necessary for the better understanding what I shall say in the Sequel, concerning the Lord's Rights, and the Tenant's Duties; but particularly so in these our Times, when Courts, by the Error of Lords, by placing mean and unqualified Persons as their Stewards, are become rather the Subject of Contempt, than, as they ought, of Fear and Respect.

From the earliest Account that is brought down to us of Civil Government's being established in this our Isle, we shall find Manors, and consequently Court-Barons, they being ever inseparable. That there were Manors in the Time of our Saxon Ancestors, is past Doubt; and tho', as the learned Lord Chief Justice Coke has observed, they differ in Form, yet in Substance they agreed with those which now subsist. But to come to the Norman Conquest, the Time in which all our old Form of Government was, if not totally subverted, yet so altered, that it seemed a new Establishment.

We shall find Manors either created anew, or modelled to the Form we now see them in.

How this came to pass I now proceed to explain, as I find it done by that Great Lord Chancellor Bacon.

The Conqueror having obtained the Kingdom, took from the Saxons, as they had from the Natives of our Isle, what he thought fit, and gave the major Part of these Lands so taken, to such Great Men as had served him in his Expedition, reserving to himself such Services as he thought fit. Many of them were Military ones. (But all these are abolished by Stat. 12. Car. 2.) What he retained in his own Hands he manured by his Bondsmen, and these were called his Demesne-Lands, from the French Word, which signifies, *In Hands*. The Great Lords to whom he gave these Lands, were called the King's Barons, and were originally all, and the only Lords of Parliament, which was then no more than an Assembly of the King's Barons; and this Assembly might very properly be called, whilst Things subsisted in the State they were so formed into, the King's

King's Court-Baron. Nor would it be easy to find any Difference betwixt the Form and Jurisdiction of that of Kings, and that of other Lords, but what consequently followed from the Pre-eminence the King had over the other Lords. This was our whole Kingdom, to use the most significant and happiest Expression of one of the ablest Writers of this Age, but one Great Seigniorship or Lordship; The Barons to whom the Conqueror gave large Portions of Land, in a similitudinary Manner, and after the King's Example, gave Parts of their greater Grants to their Servants and Followers, reserving to themselves, from their Vassals, the self-same Service they owed to the King; even all the Military Tenures, with their Appendages and Homage, of which the inferior Lords were deprived by the same Act of Parliament. And as the King had part of his Lands in his own Hands, called his Demesnes, part held by his Vassals, for which he had their several Services; so that his Royalty consisted in Lands in Hand, and in Services; so did the Manors, which were the Subjects little Royalties, consist of Demesnes and Services, and still do, tho' the Nature of those Services, by the aforesaid Act, has received a great Alteration: All the Freeholders who commonly held by Military Tenures, being now Tenants in Socage. Such Lands as the Lord did not give to his Followers, as aforesaid, nor retain in his own Hands, were partly occupied by his Permission by his Bondsmen, who were mere Tenants at Will, and might at any Time be ejected. Memorials of such Permission, for the Satisfaction of the Lord, and settling the Rights of the Tenants amongst themselves, were enter'd, and Copies thereof were made by the Lord or his Steward, whence these Tenants

The Memorials in process of Time becoming, when the Copyholder's Estate became certain, publick Records, and called Court-Rolls. Hence we see that these Tenants, from the Nature of their Tenure, were called Tenants at Will, from the Evidence they had of their Right, Copyholders, and by their having gained in Time a more fixed and permanent Interest in their Estates, they are at this Day called, Tenants at Will, with this Addition, According to the Custom of the Manor. So that the former Copyholders, notwithstanding they yielded, paid, performed and kept all the Duties, Rents, Customs and Services, yet were, without any Reason assigned, expellable at the mere Will of the Lord; tho' now in such Case, if not guilty of any Breach of their Duty, they cannot.

In some Lordships, after the Distribution of the Land in the Manner we have shewn, there still remained some waste Ground; this was called the Lord's Waste; and here originally,

nally, by the Connivance of the Lord's Officers, afterwards by the Toleration of the Lord's themselves, the Tenants Cattle used to run and eat that Grass, which 'twas not in former Days worth while to cut; till at length by Custom the Tenants in most Manors claim a Right to the Use of such Waste, which from the Manner it was used, is called by the more Modern Appellation of *Common*; in this Court, Trials were originally amongst the Tenants, concerning their Rights to their Estates, and here only determinable: And 'tis more than probable, That all personal Actions were so too, those only excepted which were laid *Contra pacem Domini Regis*; for whoever shall carefully peruse the old Rolls of Manors where the Courts have been regularly kept, will find Causes were there tried for above forty Shillings, and Tenants amerced for suing in the King's Courts, for Things determinable in the Lords. At present indeed, no Court-Baron can hold Plea of any Cause where the Demand is above forty Shillings. You see, Gentlemen, this Court is local with the first Institution of Government here, and you'll farther judge of its Jurisdiction by the Articles on which I shall direct your Enquiry, the third Thing I proposed to Discourse of, and to which I now proceed.

Defaulters.

We ought to begin amongst our selves; and the first Subject of your Inquiry must be concerning the Members of this Court that don't this Day appear, and whether they are dead or alive; if alive, you shall inquire who owe any Suit unto this Court, and at this Day have made Defaults, and present them, viz. All such as hold any Lands to sue unto this Court; for of what Age soever, or of what Distance in dwelling such Tenant is, he must here appear, and do his Suit and Service, or else be amerced; and this is called *Suit-Service*, because the Land (as it were) is tied by this Service; which by Law they are compellable to do every three Weeks; but you shall omit the Names of such as are Es-foined, because the Law allows several Excuses as reasonable; and those who either want such, or out of disrespect to the Court, think not fit to offer them, shall be amerced.

Suit by Coparceners.

2. If there be divers Coparceners who hold Lands of the Lord, to sue unto this Court, here the Lord shall have but one Suit of Court, and that of the eldest Coparcener; and the other Sisters shall be Contributors; and this is by the Statute of *Marl. 11.9.*

By joint Purchasers,

3. The same Law by the same Statute is of Joint Purchasers.

4. But

4. But by the Statute of *Quia emptores terrarum*, made in the 9th Year of E. 1. If a Tenant of this Manor hold Lands of his Lord; for Example, 20 Acres of Land by 20 s. Rent, and Suit of Court, and doth alien these Lands to twenty several Men, and their Heirs, severally; here the Lord shall have twenty several Suits of Court, where by his first Grant he had but one.

Where the Service shall be severed.

5. The Tenants of this Manor being Members of the Court by Vertue of the Tenures they hold their Land by; you shall therefore inquire of what Alteration there has been amongst the Tenants since the last Court, or at any Time that hath not yet been presented; and this Inquiry is also the more necessary that the Lord may know his Tenants that are to do him Services, and you that are the Tenants, who they are that have the Right of Common, and the like, which are incident to their Estates.

Change of Tenant.

6. The Changes which are amongst your selves, are either by ordinary or extraordinary Means; By the first the Lord gains a new Tenant subject and tied to the Performance of a Tenant, and of the same Services; by the latter the Land is self in lieu of a Tenant.

Changes amongst the Tenants happen 2 Ways.

7. The ordinary Ways the Tenants are changed, are, first by a Tenant's Death; 2dly, by his selling his Land.

8. In Case you find any Tenant's Death, you shall farther inquire and present what Tenure the Land was held by, viz. by Copyhold or Freehold.

2dly, The Name and Quantity thereof.

3dly, The Name and Age of the Heir, that I may commit his Custody as the Lord directs, if he be a Copyholder.

And lastly, What Profit is thereby accrued to the Lord, viz. Heriot, or Relief.

9. Tenant in Socage is, since the Military Tenures are taken away, the only Freeholder belonging to a Manor, and is where a Man holdeth Lands of his Lord by Fealty; or by Fealty and Suit of Court; or by Fealty, Suit of Court and a certain Rent; or by a certain Rent; if any of these Reservations be in a Deed made before the 18th Year of E. 1. and that it be for all Services and Demands; this is Socage. And if such Tenant die, his Heir within Age, he shall be in ward to the next of Kin to whom the Inheritance cannot descend. As for example; if the Lands do come to him upon the Part of his Father, he shall be in Protection of the next of Kin upon the Part of his Mother; if they do come to him upon the Part of his Mother, he shall be under Government of the next of Kin on the Part of the Father, until such Time as this Pupil hath attained his full Age of fourteen Years, and then he may enter upon his Tutor, call him to an Account, and only answering and allowing unto him his necessary Expences about his Person and Tenure.

Tenant in Socage, who.

Who shall be his Guardian.

The Lord's
Profit by
his Death.

10. And there is due unto the Lord by the Death of his Tenant, a Relief, that is, as much as one Year's Rent, payable to the Lord by the Death of this Tenant; and this is presently due after the Tenant hath attained to the Age of fourteen Years, the Lord is not to stay any longer Time for it; and if it is not paid, may immediately distrain for it.

If Tenant
by Socage
made any
Feoffment
to his Use.

11. Also, you shall enquire, whether any Tenant which held by Socage Tenure, did make any Feoffment in Fee to his Use, and died seized of the Use, his Heir being within Age, and no Will by him declared of the Use, and present it; for that the Lord shall have his Relief, as well as if he had died seized of the same Lands.

Copyhold-
er shall pay
a Fine, be
admitted,
and Guar-
dian.

12. Also, if a Copyholder die sole seized of any Lands or Tenements so holden, his Heir being of the Age of fourteen Years, then he shall pay a Fine unto the Lord, and do Fealty, and be admitted Tenant; but if the Heir be within the Age of fourteen Years, then some Guardian shall be admitted to occupy his Copyhold, and to pay, and do his Service due for the same, viz. If any Lands descend from the Father, then the Mother, or some of her next kindred, shall have the Occupation of the same Lands until the Heir be at Age, and they shall have a little Fine for the Guardianship, and the Heir at his Entry shall pay the whole Fine; you shall inquire thereof, and present the same.

Whether
any Free-
holder hath
alienated
any of his
Freehold
Lands.

13. Also you shall inquire, Whether any Freeholder hath alienated or sold away his Freehold Land or Tenements, or any Parcel of them, and present it; for he which hath purchased the Land, before he enter, ought to come and give Notice unto the Lord, that he hath purchased the same, and so the Lord shall know his Tenant, and the Service which the former paid unto the Lord shall be apportioned according unto the Value of the Lands.

Heriot-
Service,
Heriot-
Custom.

14. Also you shall enquire, Whether any that held by Heriot-Service, or Heriot-Custom, died seized of any Lands or Tenements so holden, and present it, for their Service shall be apportioned: Also the Lord shall have of every of their several Parts divers Heriots at their several Deaths. Also if one Man have two several Parcels of Lands holden by Heriot-Service, and by two several Titles, and dieth seized of the same, the Lord shall have after his Death two Heriots.

Whether
any Copy-
holder died
seized of
any such
Lands.
Forfeiture.

15. Also you shall enquire, If any Copyholder died seized of any Lands so holden, and present it; also whether any Copyholder hath made any Lease of his Copyhold, or otherwise alienated or sold the same, and present it, for it is a Forfeiture of his Copyhold: For if a Copyholder will alien or sell away his Copyhold, he ought to come into the Court and surrender the same into the Hands of the Lord, to the Use of him who shall have the Estate; or else out of the Court he

he ought to surrender it to the Bailiff, or to some of the Tenants of the Lordship, to the Use of him who shall have the Estate; and they to whom the Surrender is made, ought to present the same at the next Court, and then pay his Fine for the same, and take it to his Use in the Court, and do his endeavour to be admitted; and if he be not at the same Court, then the Lord shall have the mean Profits of the same Lands, all the Rent-Services and Reparations being deducted, until he be amerced of his Fine according to his Duty.

How a Copyholder ought to surrender his Copyhold.

16. Also you shall enquire, if any Copyholder hath made any Surrender of his Copyhold, or any Part thereof, since the last Court-day, or before, and present it, and into whose Hands it was made, and in whose Presence, or to whose Use; For at every Surrender the Lord ought to have a Fine, and the Party into whose Hands the Surrender is made, ought to come to the next Court, and present the same, and to yield up his Right into the Lord's Hands, to the Use of the Alienee, according to the Trust reposed in him, or otherwise he forfeiteth his Copyhold, except he have a reasonable Excuse; for he doth as much as in him lies to defeat the Lord of his Fine, and also to defeat the other Party, to whose Use the Surrender was made.

Alienation of Copyhold Lands, Whether any Copyholder hath made any Surrender.

17. The extraordinary Method by which Alterations happen amongst the Tenants are those, as I have already observed, by which the Lord gets the Land in lieu of his Tenants Services, and this happens two Ways, viz. by Escheat or Forfeiture.

18. All the Land of this Manor was originally the first Lord's of this Manor, and by him portioned out at his Pleasure to such Persons as he thought fit on the first Institution of this Manor to make his Tenants. The present Lord, as he succeeded to the Estate, so has he to the Rights of the first Lord; and in like Manner, you that are the present Tenants succeed to the Rights of the first Tenants: Now as nothing was more obviously just, than that the Land given to a Tenant, should for want of Heirs of the Tenant revert and return, or, as we call it in our Law Phrase, escheat to the Giver, so doth every Estate in this Manor still, if the right Owner dies without Heirs, return to the Lord.

First by Escheat.

19. A Tenant may be said to die without Heirs three Manner of Ways: First, If no Person can claim as Heir by the Rules of the Common Law; as where a Family is extinct; nor is it necessary that the Tenant whose Family is extinct should die actually seized to entitle the Lord to the Escheat; therefore you shall enquire, whether any Tenant of his Lordship's hath committed any Petit Treason, Felonies or Murders, for which he was hanged, or for the which he had Judgment to be hanged, though afterwards he paid his

Escheat by Attainder.

Charge

Charge and was delivered to the Ordinary, and present it; And whether any Tenant hath committed any Petit Treason, Felony or Murder, for the which he hath abjured the Land, for which he was outlawed, or suffered Death, and present it; for in all those Cases, the Lord of whom the Lands are holden, shall have them by Escheat, and also the Evidences concerning the same. And tho' Presentment is not necessary in these Cases to intitle the Lord to the Escheat, yet it seems prudent to have these Rights of the Lord thus published, for the quieting Titles, and the Information of the Members of this Court.

The other Thing propos'd to be here discours'd of was Forfeitures, which are grounded on the same Reason as Escheats; and to explain that, it must be remember'd that what I said of the present Lord's succeeding to the Rights of the first Breffor of this Manor, and your succeeding to the first Tenants; and also, that when the first Lord gave Lands to his then first Tenants, reserving to himself certain Services, which they not performing, the Lands were to return to him again. This still is most evident in the Forms of your Admission, by which you who are the Tenants are admitted unto your several Estates, yielding and paying the ancient Rent and accustomed Services; and those Words make a Condition precedent, which, if not performed, the Estate thereby granted reverts and returns to the Grantor,

Many Things work a Forfeiture, the most material whereof are as follows: First,

Mortmain.

20. The Statute of *Mortmain*, being the Stat. of *Magna Charta*, called *The Great Charter*. And that is, If any Tenant of this Manor hath made any Feoffment, Gift, Grant, or any Alienation to any Religious House, and their Successors, or to any Religious Person, and their Successors, or to any Guild, Fraternity or Corporation, and their Successors, not having first obtained the Licence of the King's Majesty, under the Great Seal of *England*, and the Licence of the Lord of this Manor, so to do, the Lord may enter, and take such Lands as forfeit within a Year and a Day. It is also holden by the Lord *Brook*, in his *Abridgment*, That a Lease made to any of these Uses for 100 or more Years, is *Mortmain*, and the Lord may take the same.

A Copyholder may not let longer than a Year and a Day. Granting greater Estates.

21. Also if any Copyholder let his Copyhold Land for longer Time than a Year and a Day without Licence, except it be by Custom that they may let for a longer Time; and if he do so, it is a Forfeiture, and present the same.

22. You shall also enquire, whether any Tenant for Years or Life, have granted any greater or larger Estate than they had in their Lands or Tenements, and present it; for that is a Forfeiture of their Estate.

The

The second Enquiry is of Wrongs and Offences.

The Wrongs and Offences of which we are here to take Cognisance, are variously divided by the Writers of our Law. Some with Respect to the Persons injured, have divided these Offences into Offences against the Lord, and into Offences against the Tenant; and as I conceive, very properly; for the Lord being the Head of this little Royalty, every Offence must be an Offence against him; the more adequate Division seems to be into Offences by private Tenants, and Offences by the Officers of this Royalty.

The Offences by private Persons are many in Number, the principal are as follows:

23. If there be any that do conceal any of the Lord's Lands, (that is) do hold them without his Licence; you shall enquire what Lands and Tenements the same are; what they contain; what they are worth by the Year; how long they have been detained, their Value, Rents, &c. withheld, and by whom, and present it.

Holding
Land with-
out Autho-
rity.

24. If there be any Rents, Customs or Services withheld from the Lord of this Manor, you shall inquire of it, and present it; but first you shall enquire, what Rents, Customs and Services the same are, by whom they are withheld; how long they have been detained, and in what Bailiff's Time; forth of what Lands and Tenements the same are issuing, to the End the Lord may distrain for the same, and for the Arrearages.

With-
drawn.

25. You shall next enquire of Recuser; and that is, if any Man occupy two Farms, the one within this Manor, and the other without the Manor; and at such Times as your Commons be good, and your Fields cast open, he bringeth his Cattle from the other Manor into this Manor here to Depasture; this is a Wrong, and you ought to enquire of it, and present it; for none can put Cattle merchandise upon the Common, such as he buyeth at one Fair to sell at another: Neither can any put the Cattle of Strangers upon the Common upon a false Pretence they are his own; but if he do so, he is a Trespasser.

Recuser.

26. If any have incroached any Parcel of the Lord's Wastes, though it be but a small Quantity, be it for mowing, setting freight of his Hedge, his Ditch or Pale, or any Easements about his House, yet it is a Wrong to the Lord; you ought to enquire of it, and present it.

Incroach-
ment.

27. If

Trespass in
the Lord's
Demefnes
and Roy-
alties.

Bees and
Hawks.

Pound-
Breach.

Waif and
Stray.

Rescous.

What it is.

Each of
Pound.

27. If any have committed any Trespass in the Lord's Demefnes, be the same Land, Meadow, Pasture, Wood or Water; or if any have fowled or fished in the Lord's Rivers, or hawked or hunted in the Lordship, you shall enquire and present it.

28. You shall enquire if any have taken any Honey or Swarms of Bees within this Lordship, whereof the Owner is not known; or if any have taken any Hawks, or Ayries of Hawks, and present them.

29. If any Cattle have been pounded in the Lord's Pounds, and be thence delivered without Authority of Law; this is also enquirable and presentable.

30. You shall also enquire, Whether any Waif or Stray is, or was within the Lordship, and whether the Lord be answered of the same; if not, present by whom they are conveyed away: Also you shall enquire if any Heriot be conveyed away, and by whom, and present it.

31. You shall also enquire whether any Person have made Rescous against the Lord, or any other Officer, and present it.

Rescous is, When the Lord distraineth in the Land holden of him for Rent or Services in Arrear; or if the Lord come upon the Lands, and would distrain, and the Tenant, or some other, will not suffer him, this is Rescous. Likewise if the Lord distrain for Service behind, or for Damage-feasant, and in driving Cattle to Pound, the Beasts enter into the House of the Owner, if he that distraineth prays Deliverance, and the Possessor will not deliver them, this is a Rescous; therefore if Rescous have been made, you shall present it.

32. Also you shall enquire, whether any Person hath broken the Lord's Pound; that is, to have taken away a Distress put in, and present it. You shall understand, that if the Lord distrain for any Rent or Service in Arrear, he may impound the same Distress in a Common Pound if he will, or in his own Ground, or in his Neighbours if he will by the Licence of his Neighbours; and all those Places in which the Lord doth impound any Cattle, are called, *The Lord's Pound*; but not so when another doth impound any Distress in his own Pound, or in his Neighbours, it behoveth him to give Notice to the other Party; for that if the Distress be Quick he may give him Meat, and then, if the Beast die, for want of Sustenance, he that was distrained shall be at the Loss; and then he that distrained before, may distrain again for the same Rent or Duty.

33. Also you shall enquire, whether any Tenant for Term of Life or Years, or any Copyholder of this Lordship, hath committed any Waste, or suffered any Waste to be committed upon their Land or Tenements.

Waste.

Waste is, When any Tenant for Term of Life or Years or any Copyholder, pulleth down any House, or cutteth down any Timber-Trees, or suffereth the House willingly to fall, being on their Copyhold Tenements; or if any of the Tenants plow up any Meadow ground; or if they suffer any Wall or Pale which were covered to be uncovered, by Reason whereof the same Wall or Pale falls into decay; or if any of them dig Coals, Chalk or Sand, or make any Mines in their Grounds, this is Waste.

What Waste is, and how it is to be committed.

Also if they cut down a Tree to the Value of three Shillings four Pence, this is admitted Waste; but if a Man cut down Timber to repair the old Houses that stand upon Parcel of the same Ground, and therewith doth repair them, then it is no Waste: But if he with Timber build a new House, then the cutting down of such Timber is Waste; or if he cut down any Timber to sell to repair such Houses which are fallen to Decay, such is Waste. But if Waste be done with a Tempest, no Tenant shall be punished for such Waste.

34. You shall also enquire if any Tenant, within the Precincts of this Manor, hath suffered any Farm or House to fall to Decay, which at any Time since the first Year of the Reign of Hen. 7. hath been let with twenty Acres of Land, and present it; for if they suffer any Houses to fall to Decay, the Lord may take and distrain for half of the Issues and Profits of the same, and keep to his own Use, untill such Time as the Houses shall be sufficiently builded and repaired, viz. maintained again for Husbandry.

Whether a Tenant hath let a Farm fall to Decay, viz. not maintained for Husbandry as before.

35. If any Tenants of this Manor do surcharge the Common, by putting in more Cattle than by the Rate of his Tenure he ought; or if any having merely Common Appurtenant, and not Common Appurtenant, doth put to the Common Cattle not commonable, as Hogs, Geese and Goats; or if any doth break the Lord's Soil, unless it be for Gravel for Repair of the Highways, making up the Breach again; or that doth use the Common in any other Sort, but only with his Cattle for Bit of Mouth; or that doth erect any House or Cottage, commit any Trespass, or encroach any Parcel of the Waste, without the Lord's Licence; all these are enquirable and presentable.

Abuse of Common.

And

And for the better understanding of these Kinds of Common, you shall know that they are of four Sorts, viz.

1. Common Appendant.
2. Common Appurtenant.
3. Common in Gros.
4. Common *per Cause de Vicinage*.

Common Appendant, *quid*.

1. Common Appendant is, Where a Man hath Common of Pasture Time out of Mind of Man, and by Prescription and of Common Right belonging to his own Ploughland, for such Cattle as do gain and manure the Land, and not for Hogs, Geese and Goats.

Common Appurtenant, *quid*.

2. Common Appurtenant is, Where a Man hath Common of Pasture Time out of Mind of Man, and by Prescription, but not of Common Right, belonging to an ancient House or Messuage: This Commoner may use his Common of Pasture with all Manner of Cattle; yet so as he that hath Common Appurtenant, may have sufficient Common of Pasture for his Tenements.

Common in Gros divided.

3. Common in Gros is of two Sorts; that is, Common in Gros with Number, and Common in Gros without Number.

Common in Gros with Number.

1. Common in Gros with Number, is where a Man hath Common of Pasture; for example, for ten, twenty, of any Number certain of Oxen, Horses, Sheep or Kinde.

Common in Gros sans Number.

2. Common in Gros without Number, is, Where one hath Common of Pasture of all Manner of Cattle; and yet this Commoner must use his Common of Pasture so as he that hath Common Appendant, may have sufficient Common of Pasture.

Common *per Cause de Vicinage*.

4. Common *per Cause de Vicinage*, is, Where two Townships or Lordships adjoin together, and there is no Division of their Wastes asunder; if they of the one Manor put forth their Cattle out of their Houses or Lands, and that of their own Accord, and they go into the other, 'tis lawful for them so to do; but if the Owner either drive them thither, or staff-herd them, there he is a Trespasser.

If any have over-charged the Common,

36. Also you shall enquire if any Inhabitants or Commoners have over-charged the Common or Highways, or

or Highways or put Cattle in them before the Days agreed upon,
your

Your Common Fields, by putting in more Cattle than they ought to do; and whether any of them have put their Cattle in any the Commons aforesaid, before the Days agreed upon, and present it; for the Lord (it seems) may distrain the Surplusage Damage-tenant, or else you may make among your selves Orders and Laws for your own Profit, that none shall do upon certain Penalties, &c. and by such Laws the Inhabitants and Commoners shall be bound, &c.

37. You shall also enquire if any Persons have made any Pits in the Highways; and whether any Person do commonly break Hedges, and suffer any Hogs to go unyoked or unringed, to the Annoyance of their Neighbours.

If any Persons have made Pits in the Highways, &c.

ways, breaking of Hedges,

38. You shall also enquire whether any Persons have drained or stopped any Ways, Waters, Ditches, Paths, or turned any of them into a wrong Course, and present it.

Stopping of Ways, Waters, &c.

39. Also if any have incroached any Land of the Lord's, viz. Land, Meadow, Pasture, Wood, Heath, Moor, or any other vacant Land, without Licence of the Lord, by setting of his Hedge, Pale or otherwise, and present the same.

Whether any have encroached

Note, That all vacant and waste Land within the Manor, belongeth to the Lord of the Manor.

40. You shall also enquire, whether any Person have plowed up, or removed away any Mere Marks, Baulks or Limits, between one Piece of Land and other, and present it.

Whether any have removed any Marks.

41. You shall enquire also if any Person have taken any Pheasants or Patridges with Net, Snare, or other Engine, upon the Freehold of the Lord of this Manor, and present it.

Whether any have taken any Pheasants, Swans, or Eggs, &c.

42. Also you shall enquire if any have taken away any Swans, Cignets, or Eggs of the Lord's Swans out of their Nests, and present it.

The other Sort of Offences I mentioned above by the Officers of this Court consist in the Breach of their Duty, the Substance of which is contained in the Oath they take when chosen into Office, which many of you Gentlemen have formerly all of you often heard, and therefore need not by me on this Occasion be further insisted on.

To conclude; besides these Things by me mentioned, whatever ye know fit to be presented, and may have been by me for Brevity-sake omitted, ye shall present; and also whether any of the Pains imposed last Court-Day, or forfeited, or Orders broke

broke; and for your Information therein I give you the Presentments of the former Court; so go together, consider your Charge, and when you return in the Afternoon present the Names of those Persons you choose into Office for the Year ensuing.

Then command the Bailiff to make Proclamation, *Oyes*, and adjourn the Court till after Dinner, in this Manner:

Adjourn-
ment.

All manner of Persons that have any more to do at this Court, may for this Time depart, and keep their Hour here at two of the Clock in the afternoon.

After you return from Dinner, if any Surrenders or Admittances be to be made, or Actions to be tried, let them be done; otherwise call the Jury for their Presentments, if they be ready, and swear two Assessors to assess them as before at the Last. Then Discharge the Court, the Bailiff making an *Oyes* thus:

the Dis-
charge of
the Court.

All manner of Persons that have any more to do at this Court holden here this Day, let them come forth, and they shall be heard, otherwise they, and every one else, may for this Time depart, and keep their Day here upon a new warning. And so God save the King, and the Lord of this Manor.

You shall also require, whether any Person have plow, or removed away any Milk, Banks or Lanes, between one Piece of Land and other, and present it.

You shall enquire also if any Person have taken any Trespass of Land, or other Rights, or other Breaches of the Freedom of the Lord of this Manor, and present it.

Also you shall enquire if any have taken away any Swans, or Eggs of the Lord's Swans out of their Eggs, or

The other Sort of Offences I mentioned above by the Officers of this Court, in the Breach of their Duty, the Substance of which is contained in the Oath they take when chosen into Office, which many of your Gentlemen have taken of you often heard, and therefore need not by me on this Occasion be further insisted on.

To conclude; I shall these Things by me mentioned, what ever you know to be presented, and may have been by me for this Time omitted, ye shall present; and also whether any of the Things imposed last Court Day, or foretold, or Ordered

THE

The Manner, Form, and Method of keeping a COURT of SURVEY, for surveying, setting forth, butting, describing and bounding of any Manor or Town; with the several Tenures belonging to the same. With the Form of making a Terrar or Field-book, and the Articles to be given in Charge to the Jury in a Court of Survey.

Articles to be enquired of and given in Charge in a Court of Survey, holden for the Manor of A. in the Parish of H. in the County of N. the 8th Day of May, 1656.

I *mprius*, Who have, or are suspected to have, or keep back any of the Lord's Evidences, Court-Rolls, Rentals, Books of Survey, Terrars or Writings whatsoever concerning the said Manor, and who have been Stewards of the said Manor within the Time of your Remembrance.

Note, If there be a Survey holden for two Manors, or more, at one Time, then say instead of Manor, Manors; and the said Manors, or either of them.

2. *Item*, That you inform what Limits and Bounds belong to the said Manors; and what Lords are bounding or bordering thereupon, or whether they do challenge, intrude or incroach upon the Lands of the Lords of the said Manors.

3. *Item*, That you set forth the Freehold Lands and Tenements, within the said Manors, from the Copyhold, Customary and Demesne Lands of the said Manors; and either of them, or any other Manor; and who are Freehold Tenants or Occupiers thereof, and what are their Names, and what Freehold Rent do they severally pay to the Lord of the said Manors for the same.

4. *Item*, What Alienations, Transmutations or Alterations have been made of any Freehold Lands within or belonging to the said Manors, or any of them, and what is due to the Lord upon such Alienation, Transmutation or Alteration.

5. *Item*, What Houses or Tenements of Freehold are now standing, or have been decayed within the said Manors; by whom and when were they so decayed; what Lands do or heretofore did belong to every such House or Tenement, and what Lands have been sold from the said Houses or Tenements, and to whom.

6. *Item*, What Tenements or Cottages are lately built within the said Manors, that are holden at Will, or Sufferance, or by Copy of Court-Roll of the said Manors, or either of them, or any other Manors; and who be the Owners or Occupiers thereof, and what Rents and Services do they yield and pay for the same, and what Lands do belong to every such Tenement and Cottage, and how long since have any such Tenements or Cottages been built; and what Commonage do they challenge for the same, and by what Right, and what is the Name of such Common or Commons they challenge Commonage in.

7. *Item*, How many Copyhold or Customary Tenants are within or belonging to the said Manors, and either of them; and what be their several Names, and what Messuages, Lands, Tenements or Hereditaments, hath every such Copyholder or Customary Tenant, what are their several Quantities and yearly Values, where do they lie, and how are they abuttalled, and by what Rents and Services doth every such Copyholder hold the same.

8. *Item*,

8. *Item*, Whether any of the Copyholders within the said Manors have exchanged, bargained or sold any of their Copyhold Lands or Tenements to any Freeholder; and what are such Lands and Tenements so bargained, exchanged and sold; yearly worth; and where do they lie.

9. *Item*, Whether any Copyhold or Customary Tenant of the said Manors, or either of them, hath let or set for any Time or Term of Years, his Copyhold, or Customary Lands or Tenements, or any Part thereof, without the Lord's Licence; and whether any enjoy any Copyhold or Customary Lands, not having a Copy or Grant thereof immediately from the Lord of the said Manors, and what be their Names, and the Yearly Value thereof.

10. *Item*, What Lands, Tenements, Rents, Services or Hereditaments, within, or belonging to the said Manors, are with-held, concealed, or substracted from the Lord of the said Manors, by whom, and when.

11. *Item*, What Heath-grounds, Sheep-courses or Sheep-walks, are within or belonging to the said Manors, how are they situated, set forth or bounded; and how many Acres do every such Heath, Sheep-course or Sheep-walk contain, by Measure or Estimation; and how many Sheep will the same yearly maintain and keep, and what other Privileges or Customary Feed do belong to the said Sheep-courses or Sheep-walks; and where do the same lie, and at what Time or Times in the Year is the said Privilege and Feed to be taken, and what is the yearly Value of the said Sheep-walk or Sheep-course.

12. *Item*, Whether any can or do justly claim or hold any Land that lies within the said Heath-grounds, Sheep-course, or Sheep-walks, and by what Right they do hold or claim the same; and how much Land have every such Land-holder; and whether have they not other Lands of the Lord of the said Manors in lieu or exchange thereof; and where do the said exchanged Lands severally lie; and how are they situated and bounded; and what be the several Names of the Occupiers of such Lands, and their several Quantities.

13. *Item*, What Commons, commonable Grounds, waste and vacant Grounds, are within and belonging to the said Manors, and what be their several Names; how are they situated, and where set forth or bounded; and how many Acres do every such Common, commonable Grounds, waste and vacant Grounds contain by Estimation; and who can and do just-

justly claim or pretend to have any Common of Feed in the said commonable Grounds, waste and vacant Grounds, and what be their several Names.

14. *Item*, What Inclosures and Incroachments have been made at any Time heretofore, and now being in, upon, or out of the said Commons, commonable Grounds, waste and vacant Grounds, by whom, where, and when they were made, and what Quantity; and by what Warrant or Right they did, or do hold the same.

15. *Item*, What Plantings or Trees is now, and have been heretofore set or growing upon any of the Commons belonging to the said Manors, or either of them; by whom they have been so set or planted, and what be their Names that challenge the same as belonging to their Houses or Tenements, and what be the Names of such Houses or Tenements, and how far off are the said Plantings, or Trees planted or growing from the said Houses or Tenements, and what Number of Plantings or Trees do they severally challenge to belong to their said Houses or Tenements, and by what Right; and who have lopped, felled, sold or converted to their own use any such Plantings or Trees, and for how much do they, or any of them, hold the same.

16. *Item*, What Demefne Lands are belonging to the said Manors, and either of them, and where do they severally lie, and how are they abutted, and what be their Quantities and Qualities, and their yearly Value; and what be the Names of them that have them in Farm, Exchange or Occupation; and for what Rent and Term, and for what Cause do they severally hold the same.

17. *Item*, What Liberties, Freedoms, Franchises, and other Preheminencies and Royalties do belong or appertain to the said Manors; what are the same, and what Profit may be yearly, or otherwise, made or raised by the Lord thereby.

18. Lastly, To enquire and certify who shall neglect or refuse to bring in and shew forth their Deeds or their Evidences of all their Freehold Lands and Tenements, within the said Manor, together with all their Copies or Court-Rolls of all such Lands as they severally hold by Copy of Court-Roll of the Manors aforesaid, for the better setting forth and distinguishing of the said Lands accordingly, where by the Survey of such Manors may be made more perfect.

The Manner of making the Terrar or Field-Book,
may be thus.

A General Survey and Field-book taken at H. in the County of S. holden for the Manors of G and H. by R. T. Steward and Surveyor of the same, the tenth Day of M. 1656. wherein all the Messuages, Lands, and Tenements in the said Manors, are set forth, buttred and bounded. The Tenure how all such Lands are holden, and who be the right Owners thereof.

Then beginning at what Part of the Town you please, and so go through, setting down every Parcel of Land, Messuage or Tenement distinctly, abutting and bounding it; and at last, set down the Tenure and Title of the Owner or Inheritor, according to his Evidence for the same; as thus; if you begin at the Mansion-house, then begin your Survey-book;

A. B. Esq; Lord of the Manor of H. &c. holdeth one Messuage or Manor-house, being the Scite of the Manor aforesaid, in his Demesne as of Fee, together with Barns, Stables, Dove-house, Orchards, Gardens, &c. abutting and abounding the same exactly.

Then proceed to the next Land as you go, whether East or West.

A. S. holdeth next, and more East, twenty Acres of arable Land, abutting, &c. as it lies, &c. by Copy of Court-Roll: Ut patet per Cop. suam de Rotulis Curie.

If it be Freehold of Inheritance, then say;

A. S. holdeth of the same Manor, one Free Tenement, &c. abutting it exactly, and putting down his Title and Tenure, according to his Evidence.

If the Lords of Manors, and Tenants in their several Parishes and Townships would but join together, with a little Charge, they might have Books of Survey made of their several Manors, wherein each Man's Property might be recorded and known; and this being done but once in an Age, or by every succeeding Lord, his Tenants and himself might live at Amity and Tranquillity; and many chargeable and vexatious Law-Suits, to the undoing of Thousands, avoided.

The Fees of the Court-Baron.

AS for the Fees of this Court they must differ, and are by Law what they have been by Custom Time out of Mind. For some take the same Fees are taken in the County-Court. And other Courts take the Fees which follow.

The Steward's Fees.

F OR entring any Essoin,	00	00	02
Entring every Action,	00	00	02
Every Order entred,	00	00	02
Entring a Declaration; if it be large, then more,	00	00	04
Every Process,	00	00	04
Entring every Plea or Answer,	00	00	04
Every Continuance,	00	00	02
Every Wager at Law, and Entry,	00	60	02
Warrants for Witnesses, and summoning Juries,	00	00	04
Every Nonsuit and Retrazit,	00	00	04
Entring every Judgment,	00	00	04
Satisfaction acknowledged,	00	00	02
For removing and certifying a Cause,	00	06	08

The Bailiff's Fees.

U Pon every Admittance,	00	00	04
For every Summons,	00	00	04
For executing every Process,	00	00	04
For summoning the Jury,	00	00	00
For summoning of Witnesses upon a Warrant,	00	00	04

If there be Attornies, then their Fees are.

F OR every Cause if it be heard,	00	00	00
For drawing the Declaration,	00	00	06
For every Court the Cause dependeth after he is retained,	00	00	06

The Oath of the Bailiff of a Manor.

YOU shall swear that you shall well and truly serve our Sovereign Lord the King, and the Lord of this Manor, for the Year to come, in the Office of Bailiff of the same Manor, and you shall duly and truly gather all such Rents, Revenues, or other yearly Profits as shall be extracted out unto you, and thereof you shall make and yield up a true Account at the End of the said Year, and in every Thing you shall well and honestly behave yourself in the said Office during the Time aforesaid.

So help you God.

The Bailiff must be sworn before the Court ends.

E c 4

P R E-

PRECEDENTS OF COPIES OF Court - Rolls.

C Urta Barons J. C. Militis Dom. Mauricii prad.
ibidem tent. die Luna 14 die Septembris, anno
Regni Domini Caroli Secundi, Dei gratia Anglia,
Scotia, Francia & Hibernia Regis, fidei defensoris,
&c. tertiodecimo, coram T. P. gen. Senef-
challo ibidem.

A. B. eson, de communi eson, per C. L. E. H. eson, de socia Cur,
per G. M. &c.

Abel Byram,
Bertrand Capel,
Christophus Dukeson,
Dimmock Ellis,
Everardus Finch,
Ferrandus Gay,
Gabriel Hedder,
Helias Johnson,
Jacob Killingworth,
Kenselmu Leder,
Lancelotus Minier,
Milo Rowell,

Juratores.

Defali.

Defalt. liber. Tenen.

Juratores *prad.* super sacramentum suum *presentant* quod
vid. vid.

A. B. C. D. &c. sunt liberi Tenent. hujus Manerii, & debent
seſſiam Curia, & ad hunc diem fecerunt defalt. Ideo quilibet eorum
in misericordia prout patet super eorum capit. *respective.*

Defalt. Tenen. per Copiam Rotulorum Cur.

Item *Juratores* *prad.* super sacramentum suum *presentant* quod
vid. vid.

E. F. G. H. &c. sunt Tenentes per Copiam Rotulorum Cur' & debent
seſſiam Cur. & ad hunc diem fecerunt defalt. Ideo quilibet eorum in
misericordia prout patet super eorum capit. *respective.*

Obitus liberi Tenentis.

Præstat. est etiam per Homagium *prad.* quod G. E. qui tenuit
libere de Domino hujus Manerii unum Cotagium & quatuor acras &
tres rodas terra cum pertin. in A. infra Manerium *prad.* per fidelita-
tem, seſſiam Cur. & reddit. per annum 4 d. extra ultim. Cur. obitus
de tali statu suo inde seſſit. Et quod quidem F. E. est ejus filius &
proximus heres, ætatis duodecim annorum. Et ad hanc Curiam venit
præſat. F. E. & solvit Dom. pro Relevio 3 d. & seſſit fidelitatem, &c.

Alienatio liberi Tenentis.

Item *Juratores* *prad.* dicunt super sacramentum suum *prad.* quod
C. L. qui tenuit libere de Domino hujus Manerii unum Messuagium, &c.
cum pertinentiis in A. infra Maner. *prad.* per scriptum suum inden-
tat. geren. dat. primo die Maii, anno regni dicti Dom. Regis nunc
Anglie, &c. duodecimo concessit omnia & sing. *præmis.* *prad.* cum
pertin. cuidam H. D. hered. & assign. suis imperpet. habend. & te-
nend. omnia & singula *præmissa* *prad.* cum pertin. *præſat.* H. D.
hered. & assign. suis imperpetuum, tenend. de Capitalibus Domino vel
Dominis feodi illius per consuetudinem, reddit. & servitiis inde prius
debit. & de jure consuet. Quæ quidem *præmissa* *prad.* H. D. tenet de
Domino hujus Manerii per fidelitatem, seſſiam Cur. & reddit. per
annum 2 s. Et ad hanc Curiam seſſit Domino fidelitatem, &c.

Legatio tenementorum liberi Tenentis.

Distring.

Comperum est etiam per Homagium ibidem quod H. D. qui tenuit libere de Dom. hujus Manerii duo mesuagia sive tenementa cum pertin. in A. infra Manerium præd. per fidelitatem scilicet Cur. & reddit. per annum 8 d. obijt inde scilicet & per ult. voluntatem suam in scriptis gen. dat. primo die Februarii, anno regni dicti Domini Regis nunc tertiodicesimo, dedit & legavit mesuagia sive tenementa præd. cum pertin. cuidam H. D. filio suo, habend. & tenend. mesuagia sive tenementa præd. cum pertin. præfat. H. D. filio hæred. & assign. suis imperpetuum, litem præscriptam est habere distringere præd. H. D. ad solvend. Domino Relevium, & etiam distringatur ad faciend. fidelitatem.

Sursumredditio tenementorum Customar. in feodo per manus duorum Customar. tenen. extra Cur.

Comperum est etiam per Homagium ibid. quod R. B. unus Customar. tenen. hujus Manerii, qui tenuit de Dom. hujus Manerii per Capiam Rotulorum C. r. secundum consuetudinem Manerii præd. unum mesuag. sive ac. & c. & c. duo ac. & prati, & quatuor ac. & c. & c. cum pertin. in A. infra Manerium præd. citra ult. Cur. & extra Cur. sursum reddidit in manus Domini per manus A. B. & C. D. duorum Customar. Tenen. Manerii præd. secundum consuetudinem Manerii illius tenementa præd. cum pertin. ad opus & usum J. B. hæred. & assign. suorum imperpetuum, Tenen. de Dom. per virgam ad voluntatem Domini secundum consuetudinem Manerii præd. Cui quidem J. B. Dominus per Seneschallum suum concessit inde per virgam seisinam, Habend. sibi & hæredibus suis, ac assign. de Dom. per reddit. per annum quinque solidorum, & alia s. vicia inde prius debet. & de jure consuevit. Et dat. Dom. de fine pro ingressu suo inde habend. 40s. fecit fidelitatem, & admissus est inde tenens.

Simile ad terminum vite.

Comperum est etiam per Hom. ibid. quod W. G. qui tenuit ut supra unam virgam terra cum pertin. in A. infra Maner. præd. citra ult. Cur. & extra Cur. sursum reddidit in manus Dom. per manus G. H. & I. J. gen. duorum Customar. Tenen. Manerii præd. secundum consuetudinem Manerii illius præd. virgam terra cum pertin. ad opus & usum præd. W. G. pro term. vite sue naturalis; Et post decessum ipsius W. G. tunc ad opus & usum L. D. Ar. pro term. vite sue naturalis; Et post decessum ipsius L. D. tunc ad opus & usum rectorum hæred. præd. W. G. imperpetuum; Tenend. de Dom. per virgam ad volun.

voluntatem Dom. secundum consuetudinem Manerii præd. Et dictum est per Homagium præd. quod præd. W. G. citra ult. Cur. obiit. Et modo ad hanc Curiam venit præfat. L. D. & petit se admitti ad præd. virgat. terra cum pertin. Cui quidem L. D. Dom. per Seneschallum suum concessit inde per virgam fismam; Habend. & tenend. eidem L. D. & assign. suis pro termino vite sue naturalis, & post decessum ipsius L. D. tunc ad opus & usum rectorum barad. præfat. W. G. in perpetuum, & tenend. de Domino per reddit. per annum viginti solid. & alia servicia inde prius debuit. & de jure consuet. Et præd. L. D. dat. Domino de fine pro ingressu suo ad præd. virgat. terra cum pertin. habend. sexaginta solid. & fecit fidelitatem. & admisus est inde tenens.

Aliter pro vita alterius.

Comperitur est per Homagium ibid. quod A. L. vid. que tenuit ut supra ad termin. vite sue sex clausa prati & pastura vocat. &c. modo in tenura sua occupat. cuiusdam W. I. jacen. & existen. in B. infra parochiam de A. prope adjungen. quibusdam pasturis vocat. Pasture-grounds ibidem cuiusdam C. D. ex occidentali parte, & quoddam pratum ibidem vocat. Leale meadow ex orientali parte eorundem; & unum clausum pastura vocat. Sleethdole, continens per estimation. septem acras, (plus vel minus) jacen. & existen. in B. præd. infra præd. parochiam de A. prope adjungen. quidam pastura ibidem vocat. Pasture-grounds cuiusdam E. M. ex parte orientali eiusdem; & duas pasturas (anglice Pasture-grounds) vocat. Kingstones. & Newel-tics, continentes per estimationem octodecim acras, jacen. & existen. in B. præd. prope adjungen. quidam pastura ibid. cuiusdam W. J. gen. ex parte boreali, & quibusdam tarris & pascuis modo in tenura quidam Maria Hally vidua ex parte australi eorund. citra ult. Cur. & extra Cur. sursum red. in manus Dom. per manus J. F. & G. K. duorum Custumar. Tenentium Manerii præd. secundum consuetudinem Manerii illius præd. separat. clausa prati & pastura cum pertin. ad opus & usum J. L. gen. præ termino vite ipsius A. L. tenend. de Dom. per virgam ad voluntatem Dom. secundum consuetudinem Manerii præd. Et dictum est per Homagium præd. quod præd. A. L. citra ult. Cur. obiit. Et modo ad hanc Curiam venit præfat. J. L. & petit se admitti ad præd. separat. clausa prati & pastura cum pertin. Cui Dom. per Seneschallum suum concessit inde per virgam fismam, habend. & tenend. eidem J. L. & assign. suis pro termino vite ipsius J. L. ac tenend. de Dom. per reddit. per annum 40 s. & alia servicia inde prius debuit. & de jure consuet. Et præd. J. L. dat. Domino de fine pro ingressu suo inde habend. centum solid. & fecit fidelitatem. & admisus est inde tenens.

Aliter

Aliter sur Settlement in Marriage.

Compertum est per Homagium ibid. quod J. B. qui tenuit ut supra unum messuagium sive tenement. vocat. Horners, quinquaginta acras terra, quadraginta acras prati, triginta & sex acras pastura, & centum & viginti acras marisci cum pertin. in A. infra Maner. præd. citra ult. Cur. & extra Cur. sursum reddidit in manus Domini per manus H. A. & J. V. duorum Customar. Tenen. Manerii præd. secundum consuetudinem Manerii illius præd. messuagium sive tenementum & cetera præmissa præd. cum pertin. Ad opus & usum præd. J. B. & hered. & assign. suorum, usque ad solemnizationem cujusdam interfecti Maritaggi (permissione divina) cito habetur. & solemnizatur. inter quendam C. B. filium & heredem apparentem præd. J. B. ex una parte, & quendam A. D. de A. præd. Spinkster, ex altera parte; Et ab & immediate post solemnizationem ejusdem Maritaggi tunc ad opus & usum præd. J. B. pro & durante termino vite sue naturalis; Et ab & immed. post ejus decessum, tunc ad opus & usum S. uxoris ejus pro & durante termino vite sue naturalis; Et ab & immed. post decessum (anglice the Deceases) ipsorum præd. J. B. & S. uxoris ejus, & decessum eorum superviventis, tunc ad opus & usum præd. C. B. pro & durante termino vite sue naturalis, Et ab & immediate post decessum ipsorum præd. J. B. & S. uxoris ejus & C. B. & decessum eorum superviventis, tunc ad opus & usum præd. A. uxoris intensæ præd. C. B. pro & durante termino vite sue naturalis; Et ab & immediate post decessum ipsorum præd. J. B. & S. uxoris ejus, C. B. & A. uxoris sue intensæ, & decessum eorum superviventis, tunc ad opus & usum heredum de corpore præd. C. B. super corpus præd. A. legitime procreant. vel fore procreand. Et pro defectu talis Exit. tunc ad opus & usum hered. & assign. præd. C. B. imperp. Tenend. de Dom. per virgam ad voluntatem Dom. secundum consuetudinem Manerii præd. Qui quidem J. B. & S. uxor ejus citra ult. Cur. obierunt. & modo ad banc Curiam venit præd. C. B. in propria persona sua, & petit se admitti ad præd. messuagium sive tenementum & cetera præmissa præd. cum pertin. Cui Dominus per Seneschallum suum concessit inde per virg. seisinam, habend. & tenend. eidem C. B. & assign. suis pro termino vite sue naturalis, Reman. inde prout superius limitatur, & tenend. de Domino per reddit. per annum 40s. & alia servicia inde prius debita. & de jure consuet. Et deo Domino de fine pro ingressu suo inde habend. seu libras, fecit fidelitatem, & admissus est inde tenens.

Aliter super conditionem non performat.

Compertum est etiam per Homagium ibid. quod H. R. qui tenuit ut supra unum messuagium sive tenementum, decem & octo acras terra jacen. in communibus campis de A. infra Manerium præd. & viginti

a etas prati jacen. in quodam prato in A. prad vocat. Hughes Mead, alias scilicet primo die Maii, anno Domini 1659. extra Curiam sursum reddidit in manus Dom. per manus H. I. & N. B. duorum Customar. Tenen. Manerii pran. secundum consuetudinem Manerii illius prad. messuagium sive tenementum & cetera premissa prad. cum pertin. Ad opus & usum C. D. hered. & assign. suorum imperpetuum sub hac conditione, quod si prad. H. R. hered. vel assign. sui solverent vel solvi causarent prefat. C. D. Executor. Administr. vel assign. suis, cent. libr. legalis moneta Anglie ad vel super secundum diem Maii qui foret in an. Dom. millesimo sexcentesimo sexagesimo, tunc sursum reddidit. prad. foret vacua & nullius effectus, aliter stare in plena potestate & virtute. Et modo ad hanc Curiam venit prad. C. D. in propria persona sua, & petit se admitti ad prad. messuagium & cetera premissa prad. cum pertin. Cui Dom. per Seneschallum suum concessa inde per virgam seigniam, habend. & tenend. eidem C. D. hered. & assign. suis imperpetuum, tenend. de Domino per virgam ad voluntatem Domini secundum consuetudinem Manerii prad. ac per reddit. per annum decem solid. & alia servicia inde prius debet. & de jure consuet. Et dat Domino de fine pro ingressu suo inde habend. centum solidos fecit fidelitatem, & admissus est inde tenens.

Concessio tenementorum Customar' per Dominum Manerii ad terminum vite, Remanere in Tallio, Remanere in feodo post Abatamentum.

Comperitum est etiam per Homagium ibidem quod quidam O. B. Miles defunct. tenuit de Domino hujus Manerii die quo obiit sibi & hered. suis ad voluntatem Domini secundum consuetudinem Manerii prad. unum messuagium sive tenementum, viginti acras terre, viginti acras prati, quadraginta acras pastura, triginta acras bosci, quadraginta acras jamporum & brueras, quinquaginta acras mora, & centum acras marisci cum pertin. in A. prad. infra Manerium prad. Et quod prad. O. obiit de tali statu suo inde seisis. per sex annos jam ultim. elapsos & amplius. Et quod quidam H. R. in jure A. uxoris sue, quondam uxoris L. B. Armigeri filii prad. O. B. immediate post decessum prad. O. B. in prad. messuagium sive tenementum & cetera premissa prad. cum pertin. abatavit, intravit & intravit super possessionem Dom. Manerii prad. in exhereditat. dicti Dom. Manerii prad. successorum suorum, & contra consuetudinem Manerii sui prad. a tempore cujus contrarii memoria hominum non existit in eodem Manerio usitas. & approbat. & exitus & profectus inde a tempore mortis prad. O. B. ad suum proprium usum hucusque habuit & percepit, non capiend. prad. messuagium sive tenementum & cetera premissa prad. cum pertin. extra manus Domini Manerii prad. nec fecit inde Dom. finem pro eisdem secundum consuetudinem Manerii sui prad. Et sic prad. H. R. tenuit & occupavit prad. messuagium sive tenementum & cetera premissa prad. cum pertin. per prad. sex annos ult. elapsos & amplius,

amplius, contra consuetudinem Manerii predicti. Ideo preceptum est ballivo Manerii præd. seire in manus Domini præd. messuagium sive tenementum & cetera præmissa præd. cum pertin. quousque, &c. Et Dominus modo habens inde seisinam ad humilem petitionem præd. H. R. ex gratia sua speciali ad hanc Curiam concessa extra manus suas præd. messuagium sive tenementum & cetera præmissa prædicta cum pertin. præfat. H. R. & A. uxori ejus ad terminum vite ipsius A. Et liberata est eis seisinam per virgam, habend. & tenend. præd. messuagium sive tenementum & cetera præmissa præd. cum pertin. præfat. H. R. & A. ad terminum vite ipsius A. ad voluntatem Domini secundum consuetudinem Manerii præd. Et post decessum ipsius A. remanere inde quibidam D. T. & K. uxori ejus, consang. & prox. hered. præd. O. B. videlicet filie præd. L. B. filii præd. O. B. & hered. de corpore præd. D. T. legitime procreat. Et pro defectu talis exitus remanere inde præfat. K. uxori prædicti D. T. & hered. de corpore præd. K. legitime procreat. Et pro defectu talis exitus remanere inde præfat. H. R. & hered. de corpore prædicti H. R. legitime procreat. Et pro defectu talis exitus remanere inde præfat. A. uxori præd. B. R. & hered. de corpore ejusdem A. legitime procreat. Et pro defectu talis Exitus remanere inde eisdem V. S. & hered. suis imperpetuum, tenend. de Domino per virgam ad voluntatem Domini secundum consuetudinem Manerii præd. per reddit. & servicia inde prius debiti, & de jure consuet. Et tam præd. H. R. & A. uxor ejus quam præd. D. T. & K. uxor jus dant Domino de fine pro tali ingressu suo inde habend. de & in præmissis octoginta solidos. fecerunt Dom. fidelitatem, & admissi sunt inde tenentes modo & forma prædictis, &c.

Sursum redditio tenementorum Customar. pro vita, remanere in feodo, capt. per Seneschallum extra Cur.

Ad hanc Curiam testatum est per T. P. Seneschall. quod Primo die Januarii, anno regni dicti Dom. Regis nunc duodecimo A. L. gener. jacens in extremis sursum red. in manibus Dom. per manum dicti Seneschalli extra Cur. in presentia S. D. S. R. & D. J. secundum consuetudinem Manerii præd. unum antiquum cotagium sive tenementum in quo J. C. modo subabit, triginta acras terre, viginti & sex acras prati, & quadraginta acras pasture cum pertin. in A. infra Manerium præd. vocat. Alexander's Farm, ad opus & usum J. uxoris ejusdem A. L. pro termino vite sue; Et post decessum ejusdem J. remanere inde C. L. & H. L. filiis natu minoribus præd. A. L. & hered. suis. Provisio tamen semper & sub hac conditione, quod si contingat aliam præd. C. & H. obire sine hered. de corpore suo exeun. quod tunc ipse qui supervixerit habebit & gaudebit præd. cotagium sive tenementum & cetera præmissa præd. cum pertin. sibi & heredibus suis imperpetuum. Et saper hoc venit hic in Cur. præd. J. in propria persona sua, &

petit

petit se admitti ad cottagium sive tenementum & veteris premissa
pred. cum pertin. Cui Dominus per Seneschallum suum concessit inde per
virgam seisinam, habend. sibi in forma pred. ad voluntatem Dom. se-
cundum consuetudinem Manerii pred. Et dat Dom. de fine pro ingressu
suo inde habend. quadraginta solid. fecit fidelitatem & admissus est inde
tenenti.

Simile capit. per Seneschallum extra Cur. ad usum
viri & uxoris & hered. de corpore viri, rema-
nere hered. uxoris in tallio, remanere viro præ-
sentis tenentis pro vita in tallio, remanere præ-
senti tenenti pro vita in tallio, remanere in
secundo.

Ad hanc Curiam testatum est etiam per pred. T. P. Seneschallum
ibidem, quod decimo die Februarii, anno Regni dicti Domini Regis
nunc tertiodecimo T. J. venit coram prefat. Senesib. in propria per-
sona sua, & sic sume addidit in manus Domini per manus dicti Senes-
challi extra Cur. in presentia L. D. C. K. & J. T. secundum consue-
tudinem Manerii pred. reversionem antus messagii sive tenementi, sex-
decim acrarum terra, duodecim acrarum prati, & tredecim acrarum
pasture cum pertin. vocat. Dillingham's Farm, ac reversionem duo-
rum cottagiorum, octodecim acrarum prati, & quatuordecim acrarum
pasture cum pertin. in H infra parochiam de A. Ad opus & usum
D. T. & K. uxoris ejus & hered. de corpore pred. T. legitime pro-
creat. cum post mortem cujusdam A. modo uxoris H. J. acciderint: Et
pro defectu talis Exitus de corpore pred. D. T. legitime procreat. re-
manere inde prefat. K. uxori prefat. D. & hered. de corpore ejusdem
A. legitime procreat. ; Et pro defectu talis Exitus remanere inde præ-
fat. H. J. & hered. de corpore suo legitime procreat. Et pro defectu
talis exitus remanere inde prefat. A. uxori prefat. H. J. & hered. de
corpore ejusdem A. legitime procreat. Et pro defectu talis Exitus rema-
nere inde V. S. & hered. suis impetuum. Quibus quidem D. T.
& K. uxori ejus Dominus per Seneschallum suum pred. ad hanc Curiam
concessit inde per virgam seisinam, habend. & tenend. pred. messa-
gium, cottagia & cetera premissa pred. cum pertin. in Reversione se-
cundum consuetudinem Manerii pred. cum post mortem pred. A. uxoris
prefat. H. J. acciderint, prefat. D. & K. uxori ejus & hered. de
corpore pred. D. legitime procreat. Et pro defectu talis Exitus rema-
nere inde prefat. K. uxori prefat. D. & hered. de corpore ejusdem K.
legitime procreat. Et pro defectu talis Exitus remanere inde prefat.
H. J. & hered. de corpore suo legitime procreat. Et pro defectu talis
Exitus remanere inde prefat. A. uxori prefat. H. J. & hered. de cor-
pore ejusdem A. legitime procreat. Et pro defectu talis Exitus rema-
nere inde V. S. & hered. suis impetuum ad voluntatem Domini
secundum consuetudinem Manerii pred. per reddit. & servitia inde
prius debis. & de jure consuet. & pred. D. & K. uxor ejus dant Dom.

de fine pro tali statu suo inde habend. centum solidos, & admissi sunt inde tenentes modo & forma pred. Et pred. Dom. cognoscit se satisfacti. de pred. fine inde habend. pro mesuagio, cotagiis & ceteris pramissis pred. cum pertinentiis de pred. D. & K. uxore ejus cum pred. mesuagium, cottagia & cetera pramissa pred. cum pertin. post mortem pred. A. uxoris predi H. J. ad manus suas deveniunt. Et postea ad hanc Cur. venit pred. T. J. in propria persona sua, & hic in plena Curia sursumreddidit in manus Domini tota jus, titulum, clameum & interesse sua in omnibus pred. mesuagio, cotagiis & ceteris pramissis cum pertinentiis ad usus pred. Et ulterius remisi, relaxavit, & omnino pro se & heredibus suis quietum clamavit prafat. H. J. & A. uxori ejus tota jus, titulum, clameum, interesse & demand. sua qua ipse pred. T. J. unquam habuit in predi mesuagio cottagiis & ceteris pramissis pred. cum pertinentiis, Habend. & tenend. omnia & sing. pred. mesuagium, cottagia & cetera pramissa pred. cum pertinentiis prafat. H. J. & A. uxori ejus pro termino vite pred. A. & post decesum ejusdem A. remanere omnium pred. terrar. & tenementorum cum pertinentiis prafat. D. T. & K. uxori ejus & hered. de corpore pred. D. legitime procreat. & pro defectu talis Exitus remanere inde prafata K. ux. pred. D. & hered. de corpore ejusdem K. legitime procreat. Et pro defectu talis Exitus remanere inde prafat. H. J. & hered. de corpore pred. H. J. legitime procreat. Et pro defectu talis Exitus remanere inde prafat. A. uxori pred. H. J. & hered. de corpore ejusdem A. legitime procreat. Et pro defectu talis Exitus remanere inde prafat. V. S. & hered. suis imperpetuum ad voluntatem Domini secundum Consuetudinem Manerii predicti, &c.

Præsentamentum de morte Cohæredis ubi tenementa customar. descend. unico fratri & hæredi.

Comperiam est etiam per Homagium ibidem, quod T. S. qui tenuit sibi & hered. suis de Dom. hujus Manerii secundum Consuetud. Manerii pred. unum mesuagium sive tenementum, duo cottagia, tria Dofia, unum Colombare, unum Gardinum, duo Pomoria, quinquaginta acras terre, viginti acras prati, octoginta & septem acras pascuæ, centum acras bosci, ducentas acras fampnor. & brueræ, & sexaginta acras Marisci cum pertin. in A. ante hanc Cur. obiit inde seifitus. Et quod H. S. est unicus frater & heres proximus pred. T. S. & plena ætatis, qui præsens hic in Cur. petit se admitti tenentem ad omnia terras & tenementa Customaria de quibus ipse pred. T. S. obiit inde seifitus, videlicet ad pred. mesuagium, cottagia, terras, tenementa, & cetera pramissa pred. cum pertinent. in A. pred. infra Manerium pred. Cui quidem H. S. Dominus per Seneschallum suum pred. concessit inde per virgam seifinam, Habend. & tenend. sibi & hered. suis, Tenend. de Domino per virgam ad voluntatem

voluntatem Domini secundum Consuetudinem Manerii præd. per reddit. & servicia inde prius debet & de jure consuet. Et dat Domino de fine pro ingressu suo inde habend. decem libras; & fecit Domino fidelitatem, & admissus est inde tenens.

Similis disensus filio & hæredi de terris customar tent. in Coparcenerio.

Compertum est etiam per homagium ibidem, quod quidam H. B. qui tenuit de Dom. hujus Manerii ut Parcenerius secundum Consuetudinem Manerii præd. tria mesuagia, tria Cotagia, sexaginta acras terra, septuaginta prati, & centum & quinquaginta acras pastura cum pertinet in A. infra Manerium præd. simul cum J. B. fratre suo, sibi & hæred. suis, obiit citra ult. Cur. inde seisset. Et quod quidam L. B. est ejus filius & proximus heres quondam medietat. præd. mesuagiorum, Cotagiorum, terrarum & tenementorum præd. cum pertinet, & plena ætatis; qui præsens hio in Cur. petit se admitti tementem ad præd. medietatem præd. terrarum & tenementorum cum pertinentiis. Cui quidem L. B. Dominus per Seneschallum suum præd. concessit inde per virgam seisinam, Habend. & tenend. sibi & hæred. suis in Coparcenerio cum præfat. J. B. Tenend. de Domino per virgam ad voluntatem Domini secundum consuetudinem Manerii præd. per reddit. & servicia inde prius debet & de jure consuet. Et dat Domino de fine pro ingressu suo inde habend. quadraginta solidos, & fecit Domino fidelitatem, & admissus est inde tenens.

Sursumredditio in Curia per Seneschallum.

Ad hanc Curiam venit A. B. unus Customar. tenens. hujus Manerii in propria persona sua, & sursumreddidit in manus Dom. per manus Seneschalli sui præd. annuam Cottagium cum pertinentiis vocat. Sladens, ac duodecim acras terre jacen. in communi Campo de A. præd. vocat. le Marthfield, videlicet unam acram inde super stadio ibidem vocat. Carters Furlong; inter terras Georgii Cambridge ex orientali parte, & terras Willielmi Johnson ex occidentali parte ibidem, & abuttan. super terram Capitalem vocat. a Headland ejusdem Johannis Ingersole ibidem ex parte australi; quatuor felices inde (per æstimat. unam acram) jacen. super stadio ibidem vocat. Websters Furlong; inter terras Willielmi Wilson generosi ex parte australi, & terras Josephi Tiler ex parte boreali ibidem, & abuttan. super communem viam ibidem ex parte orientali inde; duas acras inde jacen. super eodem stadio vocat. Websters Furlong, juxta terras pertinen.

Collegio vocat' Caius College in Cantabrigia ex parte boreali, & abuttan' super dictam commun' viam ibid' ex parte orientali inde; duas rodas inde jacen' super stadio ibidem vocat' Long Furlong, inter terras Manilii Willoughby generosi ex parte orientali, & terras prahonorabilis Edw. Comitiss Clarendon ex parte occidentali, & abuttan' super Rivolum ibidem vocat' Stareden Brook ex parte boreali inde; tres rodas inde jacen' super dicto stadio vocat. Long Furlong, inter terras Johannis Jordan Armigeri ex parte orientali, & terras Henrici Godfrey Militis ex parte occidentali, & abuttan' super dictum Rivolum ibid' vocat. Stareden Brook ex parte boreali inde; tres alias rodas inde jacen' super dicto stadio vocat' Long Furlong, inter terras Roberti Baker generosi ex parte occidentali, & terras Willielmi Arter ex parte orientali inde, & abuttan' super dictum Rivolum ibidem vocat' Stareden Brook ex parte boreali inde sex seliones inde (per estimationem unam acram & dimidium unius acre) jacen' super stadio ibid' vocat' Church Furlong, inter terras Roberti Jason Baronetti ex parte australi, & terras modo Dom' hujus Minerii ex parte boreali, & abuttan' super Cameterium Ecclesie parochialis de A. ex parte orientali inde; sex alias seliones inde (continen' per estimationem unam acram & dimidium unius acre) jacen' super eodem stadio vocat' Church Furlong, inter terras Susanna Carter vidue ex parte boreali, & terras Hugonis Claver generosi ex parte australi, & abuttan' super prad' Cameterium Ecclesie parochialis de A. prad' ex parte orientali inde; dimidium unius acre inde existens Caput, vocat' the Headland, ejusd' stadii vocat. the Church Furlong; unum aliud dimidium unius acre inde jacen' super stadio vocat' the Hill Furlong, inter terras prenobilis Georgii Ducis Buckinghamia ex parte orientali, & terras pertin' Magistro, Sociis & Scholaribus Collegii Sancti Johannis in Cantabragia ex parte orientali, & abuttan' super quasdam terras ibidem vocat' Stirchleys Heydons ex parte australi inde; unum aliud dimidium unius acre inde jacens super eodem stadio vocat' the Hill Furlong, inter terras Georgii Montague generosi ex parte orientali inde, & terras dicti modo Dom' ejusdem Manerii ex parte occidentali, & abuttan' super dictas terras ibidem vocat' Stirchley's Heydons ex parte australi inde; duas rodas inde jacen' super stadio ibidem vocat. Dirty Furlong. inter terras Johannis Whitby Armigeri ex parte meridionali, & terras Ambrosii Gregory generosi ex parte septentrionali, & abuttan' super magnum Boscum vocat' Gayers Wood ex parte occidentali inde; duas alias rodas inde jacen' super dicto stadio vocat' Dirty Furlong, inter terras Jacobi Scot ex parte septentrionali, & terras Dionysii Antrobus generosi ex parte meridionali, & abuttan' super dict' stadio vocat. Gayers Wood ex parte occidentali inde: Ad opus & usum Johannis Rider, hared' & assign' suorum imperpetuum. Cui quidem Johanni

Johanni Rider Dom. per Seneschallum suum concessit inde seisinam per virgam, Habend' sibi & hered' suis, Tenend' de Dom' per virg' ad voluntas' Dom' per reddit' & servicia consuet' Manerii præd' per reddit' & servicia inde prius debet' & de jure consuet'. Et dat Dom' de fine pro ingressu suo inde habend' viginti sex solid' & octo denar', facit fidelitatem, & admittus est inde tenens.

**Copia Rotuli Curia, sive extract' sursumred-
ditionis e rotulis Cur'.**

AD Curiam Baronis J. P. Militis, Domini Menerii præd', ibidem tent' die Luna primo die Septembris, Anno Domini millesimo sexcentesimo sexagesimo tertio, annoque Regni Domini nostri Caroli Secundi, Dei gratia, Anglia, Scotia, Francie & Hibernie Regis, fidei Defensoris, &c. tertio decimo, coram Francisco Wyat Armigero, Seneschallo ibidem, Irrotulatur, sic.

Manerium
de A. C.
cum Mem-
bris.

Ad hanc Curiam venit L. C. unus Customar' tenen' hujus Manerii in propria persona sua, & sursumreddit in manus Domini per manus Seneschalli sui præd' secundum Consuetud' Manerii prædicti unum mesuagium sive tenementum & triginta acras prati & pasture cum pertin' in A. præd' infra Manerium præd', Ad opus & usum J. C. hered' & assign' suorum imperpetuum. Cui Dominus per Seneschallum concessit inde per virgam seisinam, Habend' sibi & heredibus suis, Tenend' de Domino per virgam ad voluntatem Domini secundum Consuetudinem Manerii præd' per reddit' & servicia inde prius debet' & de jure consuet'. Et dat Dom' de fine pro ingressu suo inde habend' quinquaginta solid', fecit fidelitat', & admittus est inde Tenens.

The finding of the Death of a Tenant, and of a Surrender made to the Use of his Will, with an Admission of the Tenant.

HOmagium ulterius presentant quod A. B. senior Custumar. tenens hujus Manerii, diem clausit extremum post ultimam Curiam. Et quod ipse idem A. B. ante mortem ejus, scilicet decimo die Maii, Anno, &c. sursumreddidit in manus Domini hujus Manerii per manus C. D. Custumar. Tenen. ejusdem Manerii omnia & singula Custumar. terr. tenementa & hereditamenta quæ tenuit de isto Maner. ad opus & usum testament. & ultim' voluntat. suæ. Et nunc ad hanc Cur' ven. E. F. filius maximus natus ejusdem A. B. Et profert hic in Cur. testamentum & ultimam voluntatem prædict. A. B. geren. datum, &c. coram G. H. deputat. Commis. J. A. in & per tot. Archidiaconat. W. probat. tenor cujus quidem voluntat. quoad Custumar. ter' prædictas, sequitur in hæc verba, scilicet. Item, Do E. filio meo, &c. prout per dict. testamentum & ultimam voluntat. ejusdem A. B. plenius liquet. Et pet. ex gratia Domini admitt. ad omnia & singula, præmiss. prædict. videlicet ad duas pec. Custumar. terrarum jacen. in Campo vocat. R. continen. per æstimation' ost. acr. un. pec. ter. &c. jacen. prox. terr. vocatum D. ex parte Austral. & terr. &c. quas quidem duas pec. terr. præfat. A. B. nuper habuit & accepit sibi & hered. suis ex sursumrestitution. S. T. & M. uxoris ejus ad General. Cur. cum leta hic tent. die Jovis 18. die Augusti Anno, &c. plenius liquet, cui quidem E. sefina inde sibi deliberatur Tenend. sibi & hered. suis sub conditione & modo & forma prout in ultima voluntat. specificatur per Virgam ad voluntat. Domini, per servit. & reddit. 2 s. annuatim & sect. Cur. (salvo jure, &c.) & dat. Domino pro fine, &c. Et facit fidelitatem, &c.

The finding of the Death of a Tenant.

Item dicunt super Sacramentum suum, quod A. B. post ultim. Cur. obiit. sefist. de & in duabus rodīs terr. jacen. in quodam Pightel vocat. R. tent. de hoc Maner. per fidelitat. & annual. redd. 4 d. annuatim. & quod E. F. est filius ejus & prox. heres ipsius A. B. & plenæ ætatis, qui nunc inde fecit domino fidelitatem.

Or thus:

Item presentat. est per homagium præd. quod A. B. qui tenuit sibi & hered. fids de Domino Maner. præd. un. Mesuagium, &c. cum pertin. per annual. redd. vi & fidel. sect. Cur. & al. Servit. inde prius debet. & de jure consuet. obstitit inde seifit. Et quod. A. B. est ejus fil. & heres, & plene ætatis, per copiam Rotulorum Cur.

Pains found and set upon Tenants for want of Suit of Court.

Item dicunt super Sacramentum suum, quod J. W. & S. J. sunt tenentes per Copiam rotulor. Cur. hujus Maner. & debent sect. Cur. & ad hunc diem fecer. default. ideo quilibet eorum in misericordia, 6 d.

The Like.

ET quod A. B. & C. D. sunt tenentes Dom. Maner. per dimission. & debent sectam huic Cur. & nunc ad hunc diem fecer. default. ideo uterque eorum sunt in misericordia prout patet super eor. capitib.

The Like.

ET quod E. F. G. R. & J. R. sunt liberi tenentes istius Maner. & debent sect. Cur. Et nunc ad hunc diem inde fecer. default. ideo quilibet eor. sunt in misericordia prout patet super eor. capitib.

The Presentment of a Surrender made out of the Court into Tenants Hands, with the Admission of the Tenant accordingly.

ET quod L. M. junior extra Cur. post ult. Cur. fursum reddidit in Man. Domini istius Maner. per man. N. O. Custom. ten. hujus Maner. in præsentia L. M. & P. R. similiter Customar. tenen. hujus Maner. omnia terr' & tementa Customar. ejus cum pertin. quæ tenuit de Maner. isto ad opus & us. S. J. senior. hæred. & assign. suor. & pet. ex gra. Dom. admitti tenen. ad omnia & singula præmissa,

videlicet ad un. parcel. past. contin. dimid. acr. five plus five minus, cum pertin. nuper parcel. un. Customar. Tenementi & undec. acrarum ter' vocat. C. Tenement, in C. præd. quæ prædictæ. L. M. nuper cepit sibi & hæred suis post sursumreditionem fact. per quendam s. T. ad cur' general. cum let. ibid. tent. die Lun. proxim. post, &c. plenius liquet. Et admiss. est inde Tenens, & seisin. inde sibi est deliberat'. Tenend. sibi, hæred. & assign. suis per Virgam ad voluntatem Domini secund. consuetud. Maner. &c. per servic. & consuetud. &c. Et dat Domino pro fin. &c. Et fecit ei inde fidelitatem, &c.

The finding a Surrender made into Tenants Hands, to the Use of a Man's Will.

ET quod A. B. Cust. ten. istius Maner. extra. cur. post ult. cur. scilicet 24 die Maii ult. præterit. ante Tit. hujus Cur. sursumreddid. in man. Domini hujus Maner. per man. C. D. Custum. tenen. ejusdem Maner. in præsentia J. A. & S. A. simil. Custum. tenen. præd. Maner. omnia Custum. terr. & tenementa sua tent. de Maner. isto ad opus & usum Test. & ult. voluntat. ejus.

The finding of the Death of a Tenant, and of the Lands, and that the youngest Son is next Heir according to the Custom, &c. with his Admission.

ET quod W. D. Custum. tenens istius Maner. post. ult. Cur. obiit solus seisit. de & in un. tenemento inclus. vocat. L. continen. per estimat. quinque acr. jacen. in F. quod præd. W. nuper cepit sibi & hæredibus ex sursumreditione J. S. prout ad Cur. hic tent. die Lunæ Matutino Sancti Johannis Baptist. Anno, &c. patet. Et de & in quinque acr. Customar. ter' cum pertinent. tent. de eodem Maner. voc. B. quæ, &c. Et quod W. D. filius junior ejus est prox. hæres ejusd. W. secund. consuetud. hujus Maner. qui nunc ven. & petit ex gratia Dom. admitti ad præmissa cum pertinen. secund. consuetud. Maner. præd. & admissus est inde tenens cui seisin. inde ei concess. est per Virgam ad voluntat. Dom. secund. consuetud. præd. Maner. per servic. & consuet. & redd. pro quinque acr. &c. ad 4d. per annum & pro al' quinque acr. præd. terr. ad redd. 5 per annum, &c. salvo jure, &c. Et dat Dom. pro fine, &c. fecit Dom. fidelitat. &c.

*The finding of a Sale made of Freehold Lands,
with a Distress to the Bailiff to distrain for want
of taking it up.*

Item dicunt super Sacramentum suum, quod J. A. post ult. Cur. vendidit R. A. un. tent. voc. T. cum pertin. contin. per estimation. duas acr. quæ tenuit libere de isto Maner. in libro Socag. per fidelitat. & annual. reddit. 3 d. per annum, & sect. Cur. qui quidem R. A. non ven. &c. ideo præcept. est Ballivo quod distringat præfat. R. A. quod ad prox. Cur. fidelitat. faciat, &c.

The acknowledgment in the Court, of a Legacy paid.

ET quod J. B. in plena Curia cognovit seipsum satisfact. & plenar. solut. per N. B. fratrem suum de legato ejus 19 l. eodem J. B. per Testament, & ult. voluntat. patris ejus legat. secund. form. & effect. & ver. intention. dict. Testamenti, & ult. voluntatis patris ejus.

*A Presentment of a Surrender made out of Court, with
the Admission of the Tenant.*

Jurat. præsent. super Sacramentum eorum quod J. S. Customar. ten. hujus Maner. extra Cur. scilicet decimo die Maii, anno, &c. sursumreddidit in manus Domin. hujus Maner. per man. S. N. Customar. tenen. hujus Maner. in præsentia J. G. & G. F. Custum. similiter. tenen. hujus Maner. omnia terr. & tenement. Custumar. cum pertin. quæ de hoc Maner. tenuit ad opus & ul. R. K. & hæred. suor. & assignat. imperpet. qui nunc ven. hic in Cur. & pet. ex gratia Dom. admitti ad omnia & singula præmiss. præd. cum pertinen. videlicet ad un. Mess. decass. cum quibusd. terr. in C. contin. per estimation. sex acr. five plus five minus, cum pertinen. parcell. duor. Cottag. & sex acr. ter. de tenemento de H. cum pertinen. &c. quæ idem J. S. nuper cepit sibi hæredib. & assign. suis ad Cur. tent. pro Maner. præd. post sursum reddition. inde fact. per J. C. prout ad Cur. pro Maner. præd. tent. die Jovis 17 die Maii, anno, &c. plenius liquet & apparet. Et admissus est inde Tenens cui seisinâ est inde concess. habend. sibi, hæred. & assign. suis per virgam ad voluntat. Dom. secund. consuet. Maner. præd. per servic. &c. & redd. 2 s. per annum salvo jure, &c. Et dat Dom. pro fine, &c. Et fecit Dom. fidelitat', &c.

A Presentment made in Court of an Agreement made between a Son and his Mother, touching her Dowry, and the Mother's Release of her Dowry.

ET postea in Cur. ista ven. prædict. N. B. & E. B. vid. reliq. ejusdem R. B. & nunc intelligi dant Cur. quod inter seiplos consens. sup. de & pro dote ipsius E. B. in præmissis secund. consuetud. Maner. prædict. unde prædict. E. B. præsens hic in Cur. remittit & relaxat in man. Domini prædict. omnem Dotem suam & titulum dote & demand. quæ eidem E. B. pertinent secundum consuetudinem Maner. de & in omnibus & singulis terr. & Tenement. Custom. de Maner. isto tent. quæ nuper fuer. dist. R. B. quondam viri sui ad opus & usum N. B. (in plena & pacifica possessione sua modo existen.) & Hæred. & Assign. sup. imperpet. ita, (videlicet) quod eadem E. B. abhinc non exigere, clamare & vindicare poterit ullam dotem, de, in, vel ad præmiss. vel aliquam inde parcell. secund. consuetudin. Maneris præd. Sed de ea ac de & ab omn. action. & demand. talis dotis de & concern. præmiss. per irrotulament. harum præsen. imperpet. præclus. & exclus. erit. Et pro hac remissione & relaxatione, præd. N. & eidem E. B. reddit 250 l. legalis monetæ Angliæ, & dedit Domino pro fine, &c. pro relaxatione prædict. &c.

A Pain set
for an In-
croach-
ment.

Juratores dic. super Sacramentum eorum quod T. G. incrochiavit fossat. super Com. H. G. versus le milking yard de Messuag. suo, Ideo est in misericordia prout patet super caput ejus.

A Pain set
for the a-
mending of
the same,
&c.

Et præcept. est ei ad incroachment prædict. reformand. citra Festum Sancti Michaelis Arch. proxim. sequen. sub pen. prout super caput ejus.

The finding
of a Pain
forfeited.

Ac etiam dic. quod S. A. forisfecit pen. de s. s. super ips. ad ult. Cur. imposit. quod ipse post ult. Cur. & post notitiam sibi in contrar. per Balliv. hujus Maner. dat. permisit porcos suos egredi & depascere super Com. pastur. H. cont. mandat. inde sibi in contrar. dat.

A Pro-

A Presentment of an Offence done, and a Charge to the Jury to enquire, and further Day given for their Verdict.

CUM W. L. & G. B. Domini Maner. de R. un. Querc. nuper crescen. ad Occident. part. ejusd. le *Pightel* vocat. B. *Pightel* Dominicali terr. hujus Maner. in tenur. F. W. nuper succider. & ad hanc. Cur. ad inquirend. per homagium in onere dat. fuit & illos ad reddend. Verdict. inde & super præmissis, homag. præd. temp. petunt pro veredict. eor. reddend. usque prox. Cur. quia nond. inde advifat. sunt, &c. Et habent, &c. J. A. tenens Customar. hujus Maner. pet. ad finem admitti pro respectu servic. Cur. faciend. & almiss. est pro 4 d.

A Fine desired for Respite of a Suit to be done.

CUM ad ult. Cur. in onere dat. fuit homag. ad inquirend. & reddend. veredict. eor. de & concernen. succission. un. Querc. nuper ante tunc. crescen. ad Occident. part. ejusd. le *Pightel* voc. B. *Pightel* dominicali. terr. hujus Maner. in tenur. F. W. per W. S. & G. B. Domin. de Maner. de R. nuper ante temp. illud succis. Et ad Cur. eand. dies ulter. dat. fuit usque hanc Cur. Jurator. hujus Inquisition. nunc dic. super Sacramentum eor. quod tam per Testimonium A. B. un. ten. hujus Maner. ad hoc specialiter jurat. quam de cert. scientia aliquor. homag. nunc jurat. quod præfat. F. W. & omnes illi quor. statum præd. F. habet in præd. *Pightel* Customar. a tempore in tempus per spacium sexagint. annor. nunc ult. elaps. quiete & sine contradictione, succider. ceper. & asportaver. & gavis. fuer. omnibus boscis a tempore in tempus per spatium sexagint. annor. super part. viæ crescent. & ad Occident. part. ejusd. *Pightel*, & quod sepes prædict. *Pightel*, per omne tempus prædict. profit. fuer. & adjacer. eidem Quercui & quod major pars crassitatus Quercus illius extendebat se versus eand. viam. Et ulterius dic. Quod nunquam fuit aliquod Fossat. ubi præd. quercus crescebat. Et ulterius dic. per Testimonium ejusd. R. A. quod præd. R. A. olim habens in occupatione sua le *Pightel* præd. a tempore in tempus per diversos annos collegit & habuit glandulas Quercus præd. absque aliqua contradictione.

Ad

Ad hanc Cur. ven. J. W. & R. uxor. ejus præsentes hic in Cur. in propriis personis suis. Et præfat. R. per Seneschall. Cur. ejusd. sola ac secreta examinata & consentiens surf. reddider. in man. Dom. ejusd. Maner. & remisit. relaxaver. & imperpet. pro se hæredibus & assign. suis quiet. clamaver. ad opus & usum S. N. & hæred. suor. omne justum, titul. stat. ul. interesse & demand. quecunque quæ unquam habuer. nunc habent, seu quovismodo in futuro habere poterint, vel illi, seu alter eor. habere poterit secund. consuetud. ejusd. Maner. de in vel ad septem acr. terr. & unum Messuag. parcel. Tenementi voc. S. ac de in & ad duas acr. terrar. Customar. Tenementi de W. &c. quæ quidem præmissa prædict. S. nuper habuit & cepit & nunc tenet sibi & hæred. suis. post surf. reddition. inde per J. W. fact. prout ad Cur. ibidem tent. die Mercurii 21 die Martii, anno, &c. plenius ad largum patet ad opus & usum præd. S. N. & hæred. suor. adeo, (videlicet) quod neque præd. J. W. & R. nec alter. eor. nec hæred. eor. nec Hered. alter. eor. adhuc exigere, clamare vel vindicare poterit ullum statum justitulum dotem & demand. inde habend. abhinc omnino præclus. & exclus. est per hanc præsent. surf. reddition. remission. & relaxation. præd. & dat. fin. Domino, &c.

A Surrender of a Copyhold in Court, with the Admission of the Tenant accordingly.

AD hanc Cur. ven. A. B. gen. Customar. Tenens hujus Man. & præsens hic in Cur. surf. reddidit in Manus Domini ejusd. Maner. duas acr. & dimid. terr. jacen. in duabus pec. in C. five plus five minus, unde prior pars jacet inter, &c. alt. pec. cont. per æstimat. dimid. acr. & jacet, &c. quæ quid. duas acr. & dimid. præd. A. B. nuper in Cur. cepit sibi hæredibus & assign. suis post surf. reddition. inde fact. per J. W. prout ad Cur. hic tent. die Vener. 16 die Maii, anno, &c. plenius liquet, ad opus & ul. J. W. & R. ux. ejus & hæred. ipsius J. W. qui quidem J. W. & R. præsen. hic in Cur. ex gratia Domini petunt admitti ad pred. duas acr. & dimid. terr. secund. form. & effect. surf. reddition. præd. & inde admissi sunt tenentes, quibus seisin. inde concess. habend. & tenend. præd. J. W. & R. hæred. ipsius J. W. de Dom. per Virgam ad voluntat. Dom. secund. consuetudina. Maner. per servic. &c. & redd. 2 s. per annum salvo jure, &c. dat. Dom. pro fine, &c. Et præfat. J. W. fecit Dom. fidelit. &c.

A Surrender and Lease made in a Court, with the Examination of the Wife.

ET postea ad hanc Cur. ven. predict. J. S. & M. ux. ejus, & hic præsens in Cur. & pred. M. sola & secreta examinata per Seneschal. ejusd. Cur. & consentiens sursum reddider. remiser. & relaxaver. in man. Domini Man. pred. tot. jus, stat. tot. possession. Dot. & demand. illor. pred. J. S. & M. de, in, & ad omnia & singula præmiss. predict. cum pertin. ad opus & usum predict. R. K. hæred. & assign. suor. imperpetuum (nunc in plena & ampla possession. existent.) ita quod neque pred. J. S. & M. vel aliquorum abhinc requirat clamet & demandet ullum jus, titulum, dotem aut demand. de, in, vel ad præmiss. aut ullam inde part. aut parcell. sed ab omni actione, jure, titulo, dote aut demand. hac irrotatione excludentur & predict. J. S. pro remission. & relaxation. predict. dat Domino pro fine, &c.

A Surrender of Lands made in Mortgage, upon Condition for the Payment of Money, with the Admission of the Mortgagee by the Attorney, and the Fealty respited.

ET immediate post predict. Cur. predict. N. B. præsens in Cur. sursumreddidit. in man. Domini predict. per man. seneschall. Manerii predict. un. pec. terr. contin. per æstimation. duas acr. terr. arabil. terr. jacen. inter. terr. Manerii R. nuper de N. B. de parte occident. una cum viis & servit. eidem spectant. & usitat. que quidem pec. ter. R. B. pater R. B. pater predict. F. cujus hæres ipse est nuper (inter alia) habuit sibi hæred. & assign. suis post sursumrestitutionem inde factam per W. B. & E. uxorem ejus, prout ad Cur. general. cum Let. ibidem tent die Jovis. prox. post, &c. Anno, &c. liquet ad opus & usum F. D. un. filiarum N. D. gen. & hæred. & assign. ipsius F. sub hac forma & conditione quod si predict. N. B. hæred. execut. & administrat. sui vel aliquis eorum solverent vel solvi fecerint eidem F. D. hæred. executor. administrator. & assign. suis, apud Domum Mansional. ejusd. R. B. in H. in Com. Ebor. gen. sum' 20 l. bon. &c. in vel super 28 diem Octobris prox. sequent. post titulum hujus Cur. quod tum sursumrestitutio predict. vacua erit & nullius effect. seu virtutis. Et quod tunc etiam licit. erit eidem

eidem N. B. hered. & assign. suis re-intrare in dict. pec. terr. & eand. prout in priore stat. suo rursus habere, repossidere & regaudere, pred. sus. reddition. vel. aliquo in ead. in contrar. non obstant. Et super hoc pred. F. per Attornat. suum in hac parte admitt. est. inde tenens, & seisin. inde eidem F. hered. & assign. suis sub conditione pred. concess. & modo & forma predict. per Virgam ad voluntatem Domini secund. Consuetudin. Manerii pred. per servic. &c. salvo jure, &c. Et dat domino pro fine, &c. Et fidelit. respectuat. quibusque, &c.

A Surrender of Lands made presently in Court.

A Surrender made by one to his Mother of Lands for Life, the Reversion to the Son again, and Heirs.

ET postea eadem Cur. seden. pred. F. W. præsens in Cur. rursus reddidit in man. Domini ejusdem Man. Claus. pred. contin. per estimationem quinque acr. terr. vocat. L. ad opus & usum C. W. fratris ejus, & hered. & assign. ejusdem C. cui quidem C. seisin. inde concess. habend. sibi heredibus & assignat. suis per virgam ad voluntatem Domini secundum consuetudin. ejusdem Manerii per servic. &c. salvo jure, &c. Et dat Domino pro fine, &c. Et fecit inde Dom. fidelitatem. Et idem E. W. præsens hic in Cur. rursus reddidit in man. Dom. per man. Seneschall. ejusdem Manerii predict. sept. acr. terr. in un. Claus. modo in duas partes separat. cum sepe & fossat. ad opus & us. J. W. vid. matr. ejus, & assign. suorum, in forma pred. pro termino vite natural. ipsius J. W. cui quid. J. W. & assign. suis seisin. inde concess. est in forma pred. reversion. inde eidem E. W. hered. & assign. suis spectan. tenend. per Virgam, &c. ad voluntatem Dom. &c. secundum consuetudin. Manerii. pred. salvo jure, &c. Et dat Dom. pro fine, &c. Et inde fecit Dom. fidelitatem. &c.

A Release of Lands in Court.

AD hanc Cur. ven. S. B. & præsens in Cur. rursus reddidit remisit & relaxavit in Man. Dom. secund. consuetudin. istius Manerii tot. jus suum, titulus stat. possession. interesse & demand. de & in omnibus ill. parcell. de Orchard ipsius N. vocat. le old. sive further Orchard, prox. ad iungen. le Pigstel sive claus. pastur. ipsius S. vocat. le Bean Close, prout sunt separati a pred. le Pigstel sive claus. cum le Door Stakes posit. super front. fossat. dicti le Old Orchard, ad opus & us. N. B. fratris ejus (in plena & pacifica possessione existent.) & hered. & assign. suis imperpet. ita, viz. quod nec ipse S. nec hered. sui abhinc aliquod jus, titulus stat. clameum vel de.

demanda in pred. pec' terr. vindicare exigere, vel clamare poterint. Sed ab omni actione, jur. titul. stat. us. interesse & demand. inde habend. abhinc omnino præclus. & exclusi sint & quilibet eor. in perpet. præclus. & exclus. erit per harum present. irrotation. Et præd. N. pro pred. remissione & relaxatione dat pro fine Dom. &c.

Maner. de B. fl. Curia Baron. generalis P. Q. Mil. Dom. Manerii præd. ibidem tent. pro manerio præd. die ueneris scilicet primo Martii Anno Regni Domini Guil. Tertii Dei Gratia Angliae Scocie, Francie & Hibern. Regis Fidei Def. &c. Duodecimo Anno; Dom. 1699, Coram A. B. Generoso Senescallo ibidem.

Homagium ibidem.

A. B. C. D. E. F. &c. Jur.

Ad hanc Curiam Homagium præd. super Sacramentum suum præsentat quod A. B. tenens Custumar. hujus manerii citra ultimam Curiam scilicet vicesimo die Januarii Anno Dom. 1699, fecit vastum super unum Custumar. Clausum Pasture vocat. E. infra manerium præd. quod præd. A. B. tenuit de Dom. hujus manerii per Copiam Rotulor. Cur. succidendo & vendendo duas magnas fra xinos ulnos tunc crescen. super Clausum præd. contra consuetud. manerii præd. per quod præd. A. B. forisfecerit Dom. hujus Manerii omnia Custumar. terras & Tenementa quæ ipse tempore consecution. vasti predicti tenuit de Domin. Manerii predicti. Ideo præceptum est Ballivo ejusdem Manerii quod seiziat eadem terras & Tenementa in manus Domini Manerii predicti. &c.

Tenements forfeited by the Copyholders selling Trees.

Præsentat quod citra ultimam Curiam scilicet tertio die Jul. ult. præterit. C. D. & E. F. adtunc Custumarii tenentes hujus Manerii existen. ceperunt & acceptaverunt quandam sursumredditionem in manus Domini Manerii præd. per G. H. Gen. adtunc factam de omnibus terris Custumar. ipsius G. H. ad usum J. K. Gen. Hæred. & Assign. suorum, quodq; predicti C. D. & E. F. non præsentaver. sursumredditionem præd. ad hanc Cur' existen' primam Cur' prox' post captio'em sursumreddit' præd. sed eandem sursumredditionem vacaver. & cancellaver. contra Consuetudinem Manerii predicti. per quod predicti C. D. & E. F. forisfecer. Domino hujus Manerii omnia terras & Tenementa sua quæ nunc respective tenent de Dom. hujus Manerii per Copiam Rotulorum

Forfeiture for not delivering in to Court a Surrender.

tulorum, Cur. Et præcept. est Ballivo seizare eadem terras & Tenementa in manus Dom. Manerii pred, &c.

Readmit-
tance of the
Copyhol-
der.

Modo ad hanc Curiam venit pred. C. D. in propria persona sua & humiliter petit se re-admitti Tenen. ad Ter. & Tenemeta cum pertin. per ipsum ut præfertur forisfact. videlicet ad tres acras terræ in B infra. maner. pred. cui quidem C. D. Dominus hujus manerii ex gratia sua per Seneschallum suum pred. recontessit inde seisinam Habend. & Tenend. præmissa pred. cum pertin. præfat. C. D. Hæred. & Assign. suis de Dom. ad voluntat. Domini secund. consuetud. ejusdem manerii per seft. Cur. & redd. per annum 2 s. & al' Servicia inde prius debet. & de jure consuet. Et dat Dom' pro fine pro tali readmissione sua 5 l. fecit fidelitatem sic salvo semper Jur. Dom. & pred. E. D. readmissus est inde Tenens in forma predicta.

A Lease made by the Lord of Parcel of his Lands.

AD hanc Cur. Dom. hic in plen. Cur. ad firm. dimisit 3. A. un Gardin. contin. dimid. Rod. jacens, &c. Et dimid. acr. terr. in F. de terr. Dominical. Maner. Habend. sibi, Executor. & Assign. suis pro termino quinque; annor. proxim. sequent. post titul. hujus Cur solvend. inde annuatim pro quolibet anno duran. termin. pred. 1 d. ad Fest. &c. Et dat pro fine Domin. &c. Et Dom. inde fecit fidelitatem, &c.

The Admission of the younger Son to Lands according to Custom.

AD hanc Cur. ven. E. F. filius jun. & prox. hæres J. W. defunct. & pet. ex gratia Dom. admitti tenen. ad un. parcell. terr. continen. in longitudine vigint. pertic. & in latitudine tres pedes, & un. pec. terr. Customar. vocat. B. continen. per æstimation. tres acras terr. in qua dicta parcell. fossat. nuperrime fact. est. quæ quidem parcell. terr' J. W. Avus præfat. F. W. nuper habuit sibi, Hæred. & Assign. suis sursumreductione J. A. prout ad Cur. pro Maner. pred. tent. 24 die Maii, anno, &c. liquet ut jus & hæred. sua quia pred. J. W. inde seif. obiit & predict. parcell. ter. per & post mortem præfat. J. W. secundum consuetud. Man. pred. ad pred. F. W. patrem predict. F. W. descendebat. Et a pred. F. W. patre ejus parcell. pred. ad præfat. F. W. Juniorem descendebat & inde admissus est tenens cui seisin. Concess.

cess. habend. sibi. Hered. & Assign. suis per virgam ad voluntat. Domin. secund. consuetud. Man. pred. red. 2 d. &c. Et servicia, &c. consuetud. Maner. pred. per red. 2 d. &c. servic. &c. salvo jure, &c. Et pro fine dat Domino, &c. Et Dom. fecit fidelitat. &c.

A Licence by a Lord of a Manor to a Copyholder to pull down Houses standing on Copyhold Lands.

TO all and singular Surveyors, Bailiffs, and other Officers whatsoever within my Manor of *Skepton*, in the County of *Y. I.*, *E. L.*, of *B.* send greeting: Whereas I am informed, that *G. H.* hath lately purchased of *T. G.* certain old Houses within the said Manor, being Copyhold, and that the said *T. G.* hath surrendered the same Houses, to the Use of the said *G. H.* and his Heirs, according to the Custom of the said Manor: Now my Will and Pleasure is, and I do by these Presents give and grant unto the said *G. H.* his Heirs and Assigns, full Licence and absolute Liberty, Power and Authority to pull down, and to take and carry away the said Houses, and every of them, to and for the Use of the said *G. H.* and his Heirs and Assigns from Time to Time, as to him or them, or any of them, shall seem meet; any Custom or Usage whatsoever within the said Manor (if any such be, or heretofore hath been had or used) to the contrary thereof in any wise notwithstanding. And I will and command you, and every of you, that the said *G. H.* and his Assigns, may quietly have and enjoy the full and whole Benefit of my said Grant and Licence, without any Denial, Let or Impediment of you, or any of you. In witness whereof, &c.

A Letter of Attorney to surrender a Copyhold.

BE it known unto all Men by these Presents, That I, *A. B.* one of the Customary or Copyhold Tenants of the Manor of *H.* in the County of *M.* have made, ordained, constituted and appointed; and by these Presents do make, ordain, constitute and appoint, my trusty and wel-beloved Friends, *C. D.* and *E. F.* two Customary or Copyhold Tenants of the Manor aforesaid, my lawful Attornies and Attorney jointly and severally, for me, and in my Name, jointly and severally by lawful Ways and Means, to surrender into the Hands of the Lord or Lords, Lady

or Ladies, Farmers, Owners, or Proprietors of the said Manor of H. aforesaid, all the Customary or Copyhold Messuage or Tenement, with the Appurtenances, situate, lying and being in H. aforesaid, Parcel of the Customary Lands of the said Manor; and all my Estate, Right, Title, Interest, Claim, Possession and Demand, of, in, to, and out of every Part and Parcel thereof, to the Use and Behoof of T. W. his Heirs and Assigns for ever: And I, the said A. B. do hereby give and grant unto them, the said C. D. and E. F. jointly and severally, and to either of them, full Power and Authority to do, execute, and perform any other lawful Act and Acts whatsoever, needful or necessary to be done in, for, or about the better effecting of the Premises, as fully and amply to all Intents and Purposes, as I my self might do in Person or otherwise; and whatsoever my said Attornies, on either of them, shall jointly or severally do in the Premises, according to the true Intent and Meaning of these Presents; I do hereby allow, ratify and confirm. In Witness, &c.

The Grant of a Stewardship.

TO all to whom these Presents shall come. A. B. R. sendeth greeting, Know ye, That I, the said A. B. for divers good Causes and Considerations me thereunto moving, have, for me, my Heirs and Assigns, given and granted, and by these Presents do give and grant unto John Preston, of B. Gent. the Office of Chief Steward, and the Place and Execution of the Stewardship of my Manor of Skipton, in Craven in the County of York. And the holding and keeping of all Courts, Court-Leets, Views of Frank-pledge, and of all other Courts of what Kind soever the same be, to the said Manor belonging, or in any wise appertaining: To have, hold, execute, and enjoy the aforesaid Office of Chief Stewardship, and the Place and Execution of Chief Steward, and the holding and keeping of all Manner of Courts usually held and kept within the same, together with all manner of Fees, Wages, Rewards, Profits, Advantages, and Emolument, to the said Office of Chief Steward or Stewardship of the said Manor or Lordship belonging or appertaining, or at any Time heretofore accustomed and used to be paid, rendered to, or received, by the Chief Steward or Stewards there for the Time being, from henceforth, for and during the natural Life of him the said John Preston. In witness, &c.

Another of several Manors.

K Now all Men by these Presents, That **J. W. K. of c.** in the County of **York**, Esq; have given and granted unto **T. W.** of the City of **York**, Gent. the Office of Steward or Stewardship, of all my Manors and Lordships of, &c. in the County of **York**; And the Custody or Office of keeping all and singular Courts and Court Leets, Views of Frank-pledge, Courts and Court Barons within all and singular my said Manors and Lordships, and by these Presents do constitute and make him my Steward of the same Courts. To have, hold, exercise, and enjoy the said Office, with the Appurtenances, together with all and singular Fees, Profits, Perquisites and Advantages to the said Office of Stewardship belonging, or in any wise appertaining to the said **T. W.** by himself, or his sufficient Deputy or Deputies, during my Pleasure: And I do hereby give and grant unto the said **T. W.** for exercising the Office aforesaid, the certain Fee, Annuity or yearly Sum of **50 l.** of lawful Money of **England**, to be issuing out of my said Manor of **B.** and paid unto the said **T. W.** or his Assigns at the Feast of **St. Michael** the Arch-angel yearly by me the said **W. K.** or my Assigns, during the Execution of the said Office of Stewardship.

A Presentment and Admittance of the Heir on the Death of a Copyholder.

AD hanc Cur. presentat. est per Homagium pred. quod **A. B.** nuper unus Customar. Tenen. Maner. pred. qui tenuit sibi & Hered. suis de Dom Maner. pred. per Copiam Rotulor. Cur. secund. conf. Maner. pred. unum Cotag. sive Tenemen. &c. cum pertin. per annual. redd. **6 d.** fidel. scilicet Cur. & al. servic. inde prius debet. & de Jure consuet. obiit sic inde scilicet. quodque **A. B.** fil. presens hic in Cur. petit se admitti tenen. ad premissa pred. cum pertin. cui Dominus per Senesc. suum pred. concessit inde scilicet. per Virgam. Habend. & Tenend. omnia & singula premissa pred. cum pertin. prefat. **A. B.** fil. Hered. & Assign. suis imperpetuum de Domino per Virgam ad voluntat. Domini secundum conf. Maner. pred. per annual. redd. **6 d.** fidel. scilicet Cur. & al. servic. inde prius debet. & de Jure consuet. Et dat Domino pro Fine pro tall ingressu, &c. fecitque fidel. Et Admissus est inde Tenens.

If under Age say
Etatis & Annor. or the Child's Age.

A Presentment and Admittance on Surrender.

Follow the
Words of
the Sur-
render.

When 'tis
apportion-
ed.

AD hanc Cur' Presentat. est per Homag. pred. quod A. B. unus Customar' tenen' Maner. pred. citra ult. Cur' scilicet primo die Junii Anno Dom. Millesimo Septingentesimo Secundo secundum consuetud. Maner. pred. sursumredd. in manus Domini Maner. pred. per manus C. D. & E. F. duor. al' Customar' tenen. Maner. pred. duas Acras terr' Arabil jacen. in Campo vocat. Northfeild in Stadio vocat. le lower Farling terr. W. R. ex Oriental. parte & terr. T. F. ex occident. parte cum pertin. Ad opus & usum G. F. de H. in Com. B. Yeom. Hered. & Assign. suor. imperpetuum. Modoque ad hanc Cur. venit pred. G. H. & petit se admitti tenen. ad premissa pred. cum pertin. cui Dominus per Senesc. suum pred. concessit inde seisin. per virgam. Habend. & Tenend. premissa pred. cum pertin. prefat. G. H. Hered. & Assign. suis imperpetuum de Domino per Virgam ad voluntat. Domini secundum cons. Maner. pred. per annual. redd. 3 d. (per apportionament.) fidel. sesc. Cur. & al. Servic. inde prius debet. & de jure consuet. Et dat Domino pro fine pro tali ingressu suo prout patet in margine fecitque fidel. Et Admissus est inde Tenens.

Note, If the Heir be under Age he may be admitted by his Guardian, and then it must be entred thus: Qui quidem A. C. fil' per C. D. Guardian. suum venit hic in Cur' & petit se Admitti Tenen. ad premissa pred. cum pertin. cui Dominus per Seneschal. suum pred. concessit per Guardian. suum pred. inde seisinam per Virgam. Habend. & Tenend. Premissa pred. cum pertin. eidem A. B. fil' Hered. & Assign. suis imperpetuum, &c. ut supra. Only at last instead of fecit fidel. it must be said fidel. respectuatur quousque, &c. Or if any one of full Age be admitted by his Attorney (as he may be) in the Case only put Attorn. suum for Guardian. suum. Note also, There is a Fee due to the Steward, for admitting either by Guardian or Attorney, more than the Fee of the Common Admittance, and in most Places 2 s. 6d.

An

An Admittance on a Presentment made at a former Court.

CUM ad Cur' Baron. hic tent. pro Maner. pred. pri- If by De-
mo die Octobr' Anno Domini Millesimo Septingent. scent then
primo presentat. fuit per tunc Homag. quod A. B. tunc nu- alter it
per unus Customar. tenen. Maner. pred. qui tenuit sibi & us supra.
Hered' suis de Domino hujus Maner. per Copiam Rotulorum
Cur' secundum consuetudinem Manerii pred. unum Messua-
gium sive Tenementum, &c. cum pertin. per Annual. redd.
11 s. & 4 d. fidel' scil' Cur' & al' Servic. inde prius debet.
& de Jure consueta obiit sic inde seisit. quodque J. B. est Or Etatis,
ejus fil' & prox' Heres & plene Etat. Et modo ad hanc &c. if an
Cur' Ven. predict' J. B. & petiit se admitti tenen. ad pre- Infant.
missa pred. cum pertin. Cui Dominus per Senesc. suum
pred' concessit inde seisinam per Virgam. Habend. & Tenend.
ut supra.

A Presentment and Admittance to the Use of a Man's last Will.

CUM ad Cur' hic tent. pro Maner. predict. 11 die Maii
Anno Domini 1638. T. B. de Lond. Gen. unus Custom-
mar. Tenen. Manerii pred. in plena & aperta Cur. sursum redd.
per Virgam in Manus Domini dicti Manerii secund. Consuet.
Manerii pred. unum Camp. vocat. *Lexfield* & unum septi-
ment. Bosci eidem adiungen. continen. insimul per Estimati-
on. quatuordecim acras plus sive minus Et un' Campum vo-
cat. *Cherry-tree Cross* contin. per Estimation. tres acras plus si-
ve minus & duos Campos unde unum vocat. *Highwood* al.
vocat. *Highwood Pightell* abutt. super *Levesdens Lane* ex parte
te Austr. continen. per Estimation. sexdecim acras plus sive
minus Et unum Campum vocat. *Shipcoate-field* contin. per E-
stimation. decem acras plus sive minus abutt. super venellan
pred. ex parte Austr. cum omnibus & singul. pertin. quibla
que premissa predicta sunt scituat. jacen. & existen. apud vel
prope *Levesden* in Paroch. de *Watford*. Ad opus & usum dit-
ti T. B. & L. ux' ejus pro & duran. termino vitar. suar' na-
tural. & vite alterius eorum diutius viven. & post deces-
sum eorum superviven. tunc ad opus & usum tal. persone vel
personar' & de & pro tali statu vel statibus qual. dictus T.
B. per ult. voluntat. & Testament. ejus limitaret vel ap-
punctuaret. Et pro defect. talis Testamenti tunc ad opus

Note, In all Cases to follow the Words of the Surrender, lest the Justice or Ability of the Steward be questioned.

Courts Baron.

& usum reft. Hered. dicti T. B. imperpet. Et quod pred. T. B. condidit ult. voluntat. & Testament. suum in script. modo hic in Cur' prolat' geren. dat. 6 die Maii Anno Dom. (57) Tenor unde sequit. in his Anglican. verbis (viz.) *In the Name of God Amen, I, T. B. of L. in the County of N. Gen. &c. Et paulo interius in eodem Testamento sic continetur. Item, I will and devise all my Copyhold Lands, cum pertin. situate and being in the Parish of W. aforesaid, with one Close of Meadow, being Freehold, called M, cum pertin. Situate and being in the Parish of H. in the County of R. unto my Daughter Anne, and her Heirs lawfully begotten, and to be begotten.* Et modo ad hanc Cur. Homagium pred. super Sacramentum suum present. quod predict. T. B. & L. ux' ejus obier. Et pred. A. B. presens hic in Cur. pet. se admitti ad premissa pred. Cui Dominus per Seneschal. suum predict. concessit inde seisinam per Virgam. Habend. & Tenend. premissa pred. cum pertin. eidem A. B. secundum formam & effect. sursumredd. & Testamenti predict. de Domino per Virgam ad voluntat. Domini secundum consuetudinem Manerii pred. per Annual. reddit. 9 s. 4 d. fidel. sect. Cur. & al. Servic. inde prius debet. & de Jure Consuet. & pro ingr. suo inde dat Domino de fine prout patet. &c. Et fec. fidel. Et Admissa est inde Tenens.

A Recovery in a Court-Baron.

Surrender by the Tenant in Possession to make another Tenant against whom the Recovery might be had.

Ad hanc Cur. Testat. est per Homagium quod A. B. unus Customar. Tenen. Manerii pred. venit & in plena & aperta Cur. sursumredd. per Virgam in manus Domini Manerii predict. per manus R. C. Gen. Seneschal. sui Manerii pred. secundum consuetud. ejusd. Manerii unum campum vocat. *Leyfield* cum pertin. Ad opus & usum R. W. Hered. & Assign. suorum imperpet. Et Modo ad eand. Cur. ven. predict. R. W. in propria persona sua & pet. se Admitti ad Premissa pred. cum pertin. Cui Dominus per Seneschal. suum pred. concessit inde seisinam per Virgam. Habend. & Tenend. Premissa pred. cum pertin. eidem R. W. Hered. & Assign. suis imperpet. de Domino per Virgam ad voluntat. Dom. secundum consuetudinem Manerii predict. per Annual. reddit. 9 s. 6 d. fidel. sect. Cur. & al. Servic. inde prius debet. & de Jure consueta & pro ingressu suo inde dat Domino de fine prout patet, &c. Et fec. fidel. Et Admissus est inde Tenens pro fine 20 s.

Et postea ad hanc eandem Cur' ven. *W. P. Ar.* in propr. persona sua & querit. versus prefat. *R. W.* de placito cert. videlicet de uno Campo vocat. *Leysfeld* cum pertin. pred. Et fec. protestation. ad prosequend. querel. suam in forma & natura brevis Dom. Reg. de ingressu super disseisinam in le post, &c. Et inven. pleg. de prosequerel. suam pred. in forma pred. viz. *J. D. & R. R. & pet.* Process. super inde ei fieri versus prefat. *R. W.* secundum consuetud. Manerii pred. retorn. &c. Et ei conceditur, &c. Et super hoc pred. *R. W.* presens hic in Cur' in propr. person. sua gratis comperuit ad respond. prefat. *W. P.* in plac. pred. Et superinde pred. *W. P.* petit vers. pred. *R. W.* Tenem. pred. cum pertin. infra Jur' hujus Cur. ut jus & Hereditat. suam. Et in que pred. *R. W.* non habet ingressum nisi post disseisinam quam *H. H.* inde injuste & sine iudicio fec. pref. *W. P.* infra trigint. Annos jam ult. elapsos, &c. Et unde dicit quod ipsemet seisit. fuit de Tenement. predict. cum pertin. in Dominico suo ut de feod. & jure ad voluntat. Domin. secundum consuetudinem Manerii pred. tempore pacis tempore dict. Dom. Regine nunc capiend. inde explef. ad valenc. &c. Et in quo, &c. Et inde produc. sectam, &c.

Pleit le-
vied by the
Deman-
dant in the
Recovery,
and a Pro-
testation
hereupon
made to
prosecute
the same,
in Nature
of a Writ
of Entry at
the Com-
mon Law
upon a de-
seisin in the
Post.
Pledges for
prosecuting
found.
Process
prayed and
awarded.
Tenant

appears gratis. Demandant counts against him.

Et pred. *W. M.* in propr. persona sua venit & Defend. jus suum quando, &c. Et vocat. inde ad Warrant. *A. B.* qui presens est hic in Cur. in propr. person. sua. Et gratis Tenementa pred. cum pertin. ei Warrant. &c. Et super hoc pred. *W. P.* petit versus ipsum *A. B.* Tenen. per Warrant. suam Tenement. pred. cum pertin. in forma pred. &c. Et unde dic. quod ipsemet seisit. fuit de Prem. pred. cum pertin. in Dom. suo ut de feodo & jure ad voluntat. Dom. secundum consuetudinem Manerii pred. tempore pacis tempore dict. Dom. Regine nunc capiend. inde explef. ad valenc. &c. Et in que, &c. Et inde produc. sectam, &c.

Tenant
Vouches to
Warranty
A. B. who
made the
Surrender
to him, who
thereupon
appears
gratis, and
enters into
Warranty.

Et pred. *A. B.* Tenen. per Warrantiam suam venit & Defend. jus suum quando, &c. Et ulterius vocat inde ad Warrant. *N. H.* qui similiter presens hic in Cur. in propr. person. sua. Et gratis Tenem. pred. cum pertin. ei Warr. &c. Et super hoc pred. *W. P.* petit versus pred. *N. H.* Tenen. per Warrant. suam Tenementa pred. cum pertin. in forma pred. &c. Et unde dic. quod ipsemet seisit. fuit de Tenement. pred. cum pertin. in Dom. suo ut de feodo & Jure ad voluntat. Dom. secundum consuetud. Manerii pred. tempore pacis tempore dict. Dom. Regine nunc capiend. inde explef. ad valenc. &c. Et in que, &c. Et inde prod. sectam, &c.

Deman-
dant counts
against the
Tenant by
Warranty,
who Vouches over
N. H. who
entering in-
to Warrant-
ty, the De-
mandant
counts a-
gainst him.

Tenant by
Warranty
pleads the
general Is-
sue. De-
mandant
prays an
Imparlan-
ce until 11 a-
Clock, and
it is grant-
ed.

At the Hour
the Deman-
dant ap-
pears, but
the Tenant
makes De-
fault.

Judgment
for the De-
mandant to
recover a-
gainst the
Tenant in
first Plaint,
and for that
Tenant to
recover a-
gainst his
Vouchee,
who reco-
vers against
the Com-
mon Vou-
chee.

Precept for
Seizin a-
warded.

Precept re-
turned ser-
ved.

Et pred. *N. H.* tenen. per Warrant. suam ven. & defend. jus suum quando, &c. Et dic. quod pred. *H. H.* non dis- seilivit predict. *W. P.* de Tenen. pred. cum pertin. prout pred. *W. P.* per querelam & Narrationem suas pred. (super in- de) suppon. Et de hoc pon' se super Homag. &c. Et pred. *W. P.* pet. licenc. inde interloquend. hic usque ad undeci- man horam ante meridiem hujus instantis diei Et habet, &c. eadem hora dat. est prefat. *N. H.* essendi hic, &c.

Et postea scilicet ad hanc Cur' ad pred. horam pred. *W. P.* revenit hic in Cur. in propria persona sua & pred. *N. H.* licet solempnit. exat. non revenit sed in contempt. Cur. re- cessit & default. sec. ideo consideratum est per Cur. predict. quod predictus *W. P.* recuperet seisinam suam versus pre- fat. *R. W.* de premissis pred. cum pertin. Et quod pred. *R. W.* habeat de Terr. Customar' pred. *A. B.* infra hoc Maner. ad valenc. &c. Et quod pred. *A. B.* ulterius habeat de Terr. pred. *N. H.* infra hoc Maner. ad valenc. &c. Et idem *N. H.* in misericordia, &c. Et super hoc pred. *W. P.* pet. pre- cept. de habere faciend. ei plenar. seisinam de Tenement. pred. cum pertin. Ministro Cur. Dirigend. Et ei conceditur retornabile hic indilate, &c.

Et postea scilicet hoc eod. tertio die Julii Anno Dom. 1701. ven. hic in Cur. pred. *W. P.* in propr. person. sua & minister Cur' pred. certificat Cur' quod ipse virtute pre- cept. predict. sibi inde direct. dicto tertio die Julii habere fecit prefat. *W. P.* plenar. seisinam de Tenement. pred. cum per- tin. prout per precept. pred' sibi mandat' fuit cui quidem *W. P.* Dom. ad hanc Cur' Concessit etiam seisinam per Virgam de Tenementis pred. Habend. & Tenend. Premissa pred. cum pertin. eidem *W. P.* Hered. & Assign. suis imperpet. de Domino per Virgam ad voluntat. Domini secundum con- suetudinem Maner. pred. per Ann. reddit. 9 s. 4 d. fidel. se & Cur. & al' Servic. inde prius debet. & de Jure consuet. & pro ingressu suo inde dat Dom. de fine prout patet, &c. Et sec. fidel. Et Admissus est inde Tenens pro fine, 20 s.

Et postea ad eandem Cur. vener. pred. *R. W. A. B.* & *N. A.* & remisit. relaxaver. & omnino pro se & Hered. suis imperpetuum quiet. clam. pred' *W. P.* in sua plen. & pa- cifica Possessione & seifina existen. totum jus Titul. clameum Interesse & Demand' sua quecunque que unquam habuerunt habent seu quovis modo in futuro habere poterint de aut in Tenementis pred. aut in aliqua inde parcel. ita quod nec ipsi nec eorum aliquis nec Hered. alicujus eorum aliquid jus Statum Titulum Clam. Interesse seu Demand. de aut in Tenementis pred' aut in aliqua inde parte habeant nec habere debeant in futur' sed ab omnium occasione Juris Titul' Clam. usus

usus Interesse & Demand' inde pretend' fuerint exclusi & quilibet eorum sit exclusus imperpetuum per Presentes.

Et postea ad eandem Cur' ven. predict' *W. P.* in propria Persona sua & in plena & aperta Cur' sursumredd. per Virgam in manus Domini Manerii predict' per manus Seneschal. sui predict' secundum consuetudinem ejusdem Manerii omnia & singula Premissa predict' cum pertin. Ad opus & usum predict. *A. Hered. & Assign.* suorum imperpet. Modo ad hanc Cur' ven. predict' *A. B.* in prop' Persona sua & pet. admitti ad Tenementa predict'. Cui Dominus per Seneschal. suum predict. concessit inde seisinam per Virgam Habend. & Tenend. Tenementa predict' cum pertin. eidem *A. B. Hered. & Assign.* suis in perpet. de Domino per Virgam ad voluntat. Domini secundum consuetud. Manerii predict'. per Annual. reddit. 9 s. 4 d. fidel' sect. Cur' & al. Servic. inde prius debet. & de Jure consuet. & pro ingr. suo inde dat Domino de fine prout pat. &c. Et sec. fid. Et Admissa est inde Tenens pro fine 20 s.

Grant from the Lord to the Demandant of the Tenements recovered, for which a Fine paid.

Et ulterius ad eandem Cur' ven. predict. *A. B.* in Propria Persona sua & in plena & aperta Cur' sursumredd. per Virgam in manus Domini Manerii predict' per manus Seneschal. sui predict. secundum Consuetudinem ejusdem Manerii omnia & singula Tenement. predict. cum pertin. Ad opus & usum *R. B. de B.* in Com. *H. Gen. Hered. & Assign.* suorum imperpet. super quo ad eandem Cur' ven. predict. *R. W.* in prop. Persona sua & pet. se admitti ad Tenementa predict. cum pertin. Cui Dominus per Seneschal. suum predict. concessit inde seisinam per Virgam Habend. & Tenend. Tenementa predict' cum pertin. eidem *R. W. Hered. & Assign.* suis imperpetuum de Domino per Virgam ad voluntat. Domini secund. consuetudinem Manerii predict' per Annual. redd. 9 s. 4 d. fid. sectam Cur' & al' Servic. inde prius debet. & de Jure consuet. & pro ingressu suo inde dat Domino de fine prout pat. &c. Et sec. fidel. & Admissus est inde Tenens.

A Release on Record to the Demandant by the Tenant and his Vouchers of all their Right to the Premises. Other Settlements made, & the Estate by the Demandant after this Recovery passed.

A Proclamation to be made for a Copyholder to come into Court and be admitted.

ET quia predict. *D. B.* non ven. ad hanc Cur. ad sursum capiend. Tenementa predict. extra manus Domini Manerii predict. Ideo ad hanc Cur. tres Proclamationes facte fuer. primo tempore quod. predict. *D. B.* veniret ad hanc cur' ad sursum capiend. Tenementa predict. cum pertin. extra manus Dom. Manerii predict.

And so for three several Courts, primo tempore, secundo tempore, tertio tempore, if he do not come in and be admitted.

An Incroachment.

AD hanc Cur' presentat. est per Homagium pred. quod C. D. Incrochiavit super vastum Domini Maner. pred. vocat. le Goose Green ideo in misericordia est prout patet super ejus caput.

Ad hanc Cur' venit T. L. & cognovit se libere tener. de Domino Maner. pred. unum Cottagium & Tres Acres terr. Arabil. cum pertin. que descendebant eidem T. W. E. patri ejus (or que nuper perquisivit de O. R.) per fidel. feod. Cur' & Annual. redd. 1 d. Et fecit fidel. & solvit pro Arreragiis redd. quatuor annorum 4 d. Et pro fine alienationis 1 d.

Ad hanc Cur. presentat. est per Homagium pred. quod A. B. citra ult. Cur. perquisivit de B. C. unum Cottagium, &c. libere tent. de Domino Maner. pred. per fidel. feod. Cur. & Annual. redd. 2 d. sed quia non venit ad hanc Cur. Ideo precept. est Ballivo Maner. pred. quod distringat pred. A. B. quod sit ad prox' Cur. ad faciend. fidel.

The OATH of Fealty, that every Tenant ought to take, both Freeholder and Copyholder, and that as well for *Black-acre* as *White-acre*, although he had done Fealty for *White-acre* before

YOU shall true Tenant be, and true Faith bear to the Lord of this Manor in respect of the Lands and Tenements you claim to hold of him. You shall from Time to Time pay such Rents, and perform such Services for the said Premises as are due and of Right accustomed.

So help you God.

A Seizin of an Estate by the Lord after the third Proclamation, for the Heir's not coming in to take up the Land descended to him.

Memor. CUM ad Cur. Baron. Tent. pro Manerio pred. & B. 30 die Maii Anno Domini 1701. Presentat. fuit per Homagium ibidem quod A. B. Ar. unus Costommar. Tenen. hujus Manerii mortuus fuit & obijt scilicet de uno Customer. Messuagio sive Tenemento cum pertin. scilicet jacem. & existent. in W. nuper in possession. G. B. Et quod A. A. est ejus Filius & heres & plene etatis viz. etas 21 Annorum & amplius sed quia non ven. admitti ad pred. Messuagium sive Tenementum cum pertin. Ideo prima Proclam. tunc fuit ista voce quod accedat ad Cur' ratione prem. aut aliter scilicet forent in manus Dom. pro defalt. Tenentis Cumque etiam ad Cur' hic tent. 3 die Octobris Anno Dom. 1701. supradicto secunda Proclam. facta fuit vers. prefat. R. A. in forma pred. &c. Cumque etiam ad aliam Cur. hic tent. 7 die Martii Anno Dom. 1702. tertia Proclamatio facta fuit versus prefat. R. A. quod veniret ad Cur' ill' ratione premissa pred. aut aliter scilicet forent in manus Dom. pro defalt. Tenent. Et quia pred. R. A. seu aliquis jus habens ad Premissa non ven. ad predictam ultimam Cur. Ideo precept. fuit J. G. Ballivo hujus Manerii & Ministro hujus Cur' in Messuag. sive Tenem. pred. cum pertin. intrare & eadem seiscire in manus Domini per defalt. Tenen. Modo ad hanc Cur. pred. J. G. reven. hic in Cur. sedent. Cur. & dic. quod ipse intravit in Messuag. pred. cum pertin. & premissa pred. seiscivit in manus Domini prout per precept. ill' sibi mandat. fuit Et mediate ven. hic in Cur. S. J. Mil' & dedit Domino hujus Manerii intelligi & informari quod pred. A. B. Ar' admissus fuit ad Premissa pred. cum pertin. sub fiducia & pro solo usu ipsius S. J. super quo Dom. hujus Manerii ex mero motu & special. gra. suis ex petitione pred. S. J. dedit & concessit predicto S. J. pred. Messuag. sive Tenement. cum pertin. Habend. & Tenend. sibi & Hered. suis secundum consuetudinem hujus Maner. qui quidem S. J. presens hic in Cur. pet. de Domino se admitti Tenen. ad Messuagium pred. cum pertin. Cui Dom. per seneschal. suum pred. concessit inde seisinam per Virgam Habend. & Tenend. Messuagium pred. cum pertin. sibi & prefat. S. J. Hered. & Assign. suis in perpet. de Domino ad volunt. Dom. secundum consuetudinem ejusdem Manerii per Annual reddit. 1 d. fidelitat. sectam Cur. & al' Servic. inde prius debet & de Jure consueta Et Admissus est inde Tenens.

If he is under Age, must be so mentioned, and the seisure can only be *quousque*, &c.

An Infant can commit no Forfeiture, but the Lord may chuse a Guardian, and admit him and so be paid his Fine, and not stay till he comes of Age.

A Presentment of the Death of a Freeholder.

AD hanc Cur. Homag. present. quod T. G. qui tenuit libere sibi & Hered. suis de Domino hujus Manerii un. acr. terr. cum pertin. in C. per reddit. per Annum 3 d. & al' Servitia obiit inde seist. circa ultimam Cur' unde accidit Domino de Relevio 3 d. Et quod A. G. est filius unicus & heres predict. T. G. Ideo precept. est, &c.

Ad hanc Cur. Ven. A. G. in propria Persona sua. Et fecit Domino fidelitat. pro una acra terre cum pertin. in C. in libero & communi focagio per reddit. per Ann. 3 d. & al. serv. inde debet. & consuet. unde pater ejus T. G. nuper obiit seist. prout presentat. fuit per Homagium ad Cur. Baron. Tent. pro Maner. pred. 20 die Martii 1702. Et dat Domino de Relevio 3 d. Et Admissus est inde Tenens.

THE

THE COURT OF Piepowders.

The Definition of it ; what it is, and why it was Instituted ; together with its Jurisdiction.

THE Word *Piepowder*, hath its Definition from the French Words *Pied*, i. *pes*, and *Puldreux*, i. *pulverulentus* ; or as *Stene de verb. significat. Pede pulverescus*, Dusty Feet, a Vagabond, Pedlar, or Scotch Merchant, who hath no certain Dwelling-Place, and by whom Fairs are usually kept, to whom Justice should be summarily ministred within the Flowings and Ebbings of the Sea ; or as some define it to be, *Caria parvi ponderis*, and this is to be *pedis pulverizati* ; and so the Lord Chief Justice *Anderson* did use to define it, for the Speed and Celerity there used, in the present Dispatch of Business.

This Court of *Piepowders* is a Court of Record, instituted and set up for the speedy and sudden Dispatch of Matters and Differences arising in a Fair or Market, and for the speedy doing of Justice ; and in this Case of Necessity, for the sole Benefit of Tradesmen and Merchants, and for the present Determination of all Doubts and Questions there then arising ; and that only upon Sales and Contracts had in the Fair and Market, during the Time thereof, but not for Matters acted and done before, or at any Time after the Fair or Market held ; but for Matters happening and arising *in pleno Mercato*, or *in plena feria*. 8 H. 7. fol. 4. b.

The Definition of
Pispowder.

This 8H.7.f.4.b.

This Court is of two Kinds, viz.

1. Either by Prescription ; and this is an absolute Jurisdiction.
2. To be in a Fair and Market ; and to this a Court of Piepowders is incident.

And here two Things are requisite, viz.

1. This Court is to be for Matters arising in the Fair or Market.
2. The Matter to be determined there, within, and during the Continuance of the Fair and Market ; and this appears to be so by the Stat. of 17 E. 4. cap. 2. and 1 R. 3. cap. 6. and this is in a Court of Piepowders annexed unto a Fair or Market : But in a Court of Piepowders which one hath by Prescription, there they may hear and determine Matters done before. *Bulst. 2. Part. fol. 21. Goodson against Duffil. Cro. first Part, fol. 33.*

*Stat. 17. E.
4. c. 2. and
1 R. 3. c. 6.*

*Bulst. 2.
Part. f. 21.
Cro. 1. Part,
fol. 33.
Prescription.*

*13 E. 4. fo.
8. b.*

For in case of Prescription such a Court may well be without a Fair, from Time to Time, and from Day to Day, *13 E. fol. 8. b.* it was so adjudged in Point of a Writ of Error, where the Error assigned to reverse a Judgment given in *curia predis pulverizati*, there alledged to be held *secundum consuetudinem ejusdem civitatis*; the Error insisted upon was, because he shewed not that the Matter upon which the Action was brought, was in *pleno Mercato*, or in *pleno Feria*, It is there expressly adjudged, That this was no Error, because the same was said to be held *secundum consuetudinem civitatis*; so that such a Court may be held without a Fair or Market, and the King may well grant such a Court to be held from Day to Day. And such a Court may well be held by Custom without any Fair or Market, and its proper Denomination is from the speedy Dispatch of Business there; so that the Jurisdiction of this Court held by Prescription, may be extended unto all Contracts and Bonds, to Actions of Trespafs, and Actions on the Case; and to this Purpose was the Case between *Chambers Plaintiff*, against *Pert Defendant*. *Hill. 33 Eliz. Rot. 124.* where an Action of Trespafs for an Assault and Battery was brought in a Court of Piepowders, for an Assault done long before; and well maintainable, as it was held.

*Hill. 33.
Eliz. Rot.
124.*

But this Court held by Prescription doth much differ from the ordinary Court of Piepowders, and that by many Circumstances: This may be thus used and held, viz.

1. Either by way of Grant.
2. By way of Confirmation.

And

And being thus held, it differs from the ordinary Court of Piepowders, which is incident to every Fair, as appeareth by 12 H. 7. fol. 16. b. and 13 H. 7. fol. 19. And the same Court is thus incident to a Fair and that of Common Right, as appears 13 E. 4. fol. 8. b. *Old Book of Entries*, fol. 168. *Fitz. Delle en Gailor placito*, 1. fol. 18. *Fitz. Account of Execution*, placito 3. If one will declare upon a Matter in this Court in a Fair, there in such a Case of Necessity he ought to set forth in pleading, that the same was done in *plena Feria*, or *in pleno Mercato*, otherwise not good. But it is not so in Case where a Man hath, and holdeth this Court by Prescription, in which Court they may hear and determine Actions upon the Case for Words, but not so in an ordinary Court held during the Time of the Fair: And by 6 E. 4. fol. 3. b. If a Man in his Fair hath this Court, here the Steward is Judge and no other, for there are no Suitors; and for a Judgment given in this Court a Writ of *Faux Judgment* lieth not, but a Writ of *Error*; and with this agrees 7 E. 4. fol. 23. And where one claims to hold this Court by Prescription, and also by Charter; if the Charter be not contrary to the Prescription, this shall be good by way of Confirmation.

As a Court-Baron is incident to a Manor, so a Court of Piepowders is incident to a Fair, and by Grant of the Fair this doth pass, and with this accords 19 H. 8. *Brook's Case*, fol. 2. placito 7: and *Brook. Tit. Incidents*, placito, 34. and not to be severed from them, neither by Grant nor by Reservation, 2 & 3 Ph. & Mar. Dyer fol. 133. pla. 80. *Error sur Judgment in Court de Piepowders port*, le Plaintiff assigned for Errors, *que defendant ne fait amercy*, allowed pur Error, *car coment soit pur advantage le defendant*, *uncore concern le Roy & son profit*, *judgment suit sur contract fait in le Faire deugnt*, & null plaint dougues entred, resolved, *que ambideux fuerent errors*. Jenkin, fol. 211. cent. 5. casus 48. The Plaintiff in a Court of Piepowders doth count of a Contract made in the Fair before, where no Plaint was then begun, nor any Judgment of Amerciamment of the Defendant then given, and this was held a good Error in both by all the Justices of both Benches. Mich. 42 & 53 Eliz. B. R. Co. 10. fol. 73. in the Case of the *Marshalsea*, where Hall brought a Writ of Error against Jones, to reverse a Judgment given against him in the Court of Piepowders of the Market in the City of Gloucester; for that Hall had published slanderous Words of him, (*viz.*) *Mr. Jones and his Clerk have by Colour of his Office, extorted and gotten 300 l. per annum by unlawful Means, for many Tears together, above their ordinary Fees. for proving of Testaments and granting of Administrations*, the which Judgment was reversed for two Errors, *viz.*

This Court is incident to a Fair or Market, and by a Grant of them it passeth. 19 H. 8. *Brook's Case*. f. 2. pl. 7. and *Brook. Tit. Incidents*. pl. 34. 2, 3. *Ph. & Mar. Dyer* fol. 133. pl. 80. *Ca. 18. f. 734*

1. Because Words did not concern any Matter touching the Market, and therefore the Court had no Jurisdiction of it; but if

if one slander any who trades, and merchandizes in the Market, in any thing which concerns his Trade, there an Action for this well lieth.

2. It appears in the Count, that the Words were spoken before the Market, and not during the Time of the Market: For as this Court hath no Jurisdiction but in Matters concerning the Market. so the same Court hath no Jurisdiction for Matters concerning the Market, unless they were acted and done during the Time of the Market. *Bract. lib. 5. fol. 335. a. De brevi de rectio. 1. diversitate, divisione summonitionis*, it is there said, *per quindecim dies, ante diem quo comparare debeat summonitio* ought to be, *Et talis summonitio dici debeat legitima. Si minus spatium contineat, possit illagittima judicari; nisi ob causam legitimam minus tempus statuatur, ut propter personas, qui celerem habere debeant justitiam. sicut sunt Mercatores, quibus exhibetur justitia Pepoudrous*, by the Statute of 17 E. 4. cap. 2.

Bract. 15. f. 335. De brevi de rectio. 1.

17 E. 4. c. 2.

No Plea shall be holden in this Court, unless the Plaintiff or his Attorney do swear that the Contract was made during the Time of the Fair. Stat. 1 R. 3. c. 6. Note.

And in this Court no Steward, or other Minister, shall hold Plea upon an Action, at the Suit of any Person unless the Plaintiff or his Attorney, in the Presence of the Defendant, do swear that the Contract in the Declaration, &c. was had and made; during the Time of the Fair, and within the Jurisdiction of the Fair; but this Oath (so taken) shall not conclude the Defendant for pleading in Abatement of the Action, and to the Jurisdiction of the Court; this by the Statute of 1 R. 3. c. 6. is made perpetual: In this principal Case the Defendant in the Court at Rochester, was condemned in an Action of Debt for 300 l. upon a Bond and Contract formerly made, and entred into; and for this Cause the Judgment was erroneous.

Note, That in this Court the Steward is Judge, because there are no Suitors there, neither can the Steward delegate a Deputy. 6 E. 4. f. 4. 7 E. 3. f. 23. The Trial is by Merchants and Traders in the Fair, and the Judgment against the Defendant shall be *quod amercietur*. 17 E. 4. c. 2. 1 R. 3. c. 6. 6 E. 4. 8. 13 E. 4. 8.

Divers Resolutions
 Of the COURT of
King's-Bench,
 CONCERNING
Inferior Courts.
 For keeping of them within their
JUST BOUNDS.

Lond. ff.

Carew Pearse querit. de Thom. Cox & Johanne Boys in Custod. Mar. &c. De eo quod ipsi decimo nono die Jan. Anno Regni Domini Caroli secundi nunc Regis Anglie, &c. xxiv. vi. & armis, &c. in ipsum Carew apud London. predict. videlicet in Parochia Beate Mar. de Arcubus in Warda de Cheap insult. fecerunt & ipsum Carew adtunc & ibidem verberaver' vulneraver. & male tractaver' ceper. arrestaver' & imprisonaver. & ipsum in prisona ibidem per spatium sex dierum ex tunc prox' sequen. absque aliqua causa rationabili contra voluntatem ipsius Carew & contra leges & consuetud. hujus Regni Anglie custodi-

ver.

ver' & detinuer' & alia enormia eidem Carew adtunc & ibidem intulerunt contra pacem dicti Domini Regis nunc & ad dampnum ipsius Carew ducentarum librar. & inde pro ducit sextam, &c.

Plea.

Et predict' Thomas Cox. per J. S. Attorn' suum & predict' Johannes Boyse per R. A. Attorn' suum veniunt & defendunt vim & injuriam quando, &c. Et quoad venire Vi & armis seu quicquid quod est contra pacem dicti Domini Regis nunc necnon vulnerationem predict'. superius fieri suppositam iidem Johannes & Thomas dicunt quod ipsi non sunt inde culpabiles & de hoc ponunt se super patriam. Et predict'. Carew Pearse similiter, &c. Et quoad residuum transgression' predict' superius fieri supposit' iidem Johannes & Thomas dicunt quod predict' C. P. actionem suam predict' inde versus eos habere seu manutenere non debet quia dicunt quod Civitas London' est antiqua Civitas in qua quidem Civitate scilicet apud Paroch' & Wardam predict' infra eandem Civitatem est & a tempore cujus contrarii memoria hominum non existit fuit talis consuetudo usitata & approbata videlicet quod si aliquis Civis vel forinsecus indebitatus sit aliqui Civi & libero homini ejusdem Civitatis in aliqua summa denariorum super computo infra sive extra libertates ejusdem Civitatis emergent' sive surgen' & Civis ille affirmaverit versus personam sic indebitatam actionem sive querel' suam debiti in aliqua Curia de recordo Domini Regis vel Progenitor' suor' infra Civitat' predict' super qua retornat' fuerit per Servien' ad Clavam ac ministr' talis Curie pro tempore existen' ore tenus quod talis persona sic indebitat' nihil habuerit infra libertatem Civitatis predict' per quod summoniri poterit nec fuerit invent' in eadem Ac si superinde testatum fuerit Cur' in qua talis actio sive querela affirmata existit ex parte talis querentis in tali actione sive querela quod aliqua alia person' infra eandem Civitat' inventa indebitata sit tali persone defend' in aliqua denariorum summa ad summ' debiti in ead. actione sive querela specificat' aut aliquam parcell' inde attingen' quod tunc talis defend' ad petition' talis querent' vel ejus Attorn' attachiat' foret per hujusmodi debiti sic in manibus talis alius persone existen' essendi ad prox' Cur' dicti Domini Regis in Guildalda Civitatis predict' coram altero Vicecom' Civitatis predict' coram quo hujusmodi actio sive querela affirmari contigerit ext' tenend' ad respondend' tali querenti de & in placito in tali querela sive actione sua & tunc si idem serviens ad clavam ad coriam illam testificaverit quod talis defend' per summam illam attachiatur ad respondend' tali querenti de placito in hujusmodi defend' actione sive querela specificat' hujusmodi defend' ad Cur' ill' & tres alias Cur' ibidem separatim prox' extunc tenend' videlicet

delicet ad quatuor hujusmodi Curias solemniter exactus non ven' sed defalt' fecerit in eadem actione sive querela ac quod quatuor defalt' super talem Defend. ad quatuor Curias ill' in Guilhald' Civitat' predict' in placito talis querele sive actione recordat' forent post tale attachiament' super talem defend' fact' Et tunc si talis pars querens in propria persona sua vel per Attorn' suum ad illa' Cur' sive ad aliquam aliam Curiam dicti Domini Regis coram aliquo Vic' ejusdem Civitat' in Guilhald' ejusdem Civitat' coram quo hujusmodi actio sive querela affirmat' fuerit postea tentam juraverit hujusmodi summam per eum petitam fore verum debitum suum. Et quod talis defend' eidem querenti debitum illud detinet tunc dictus querens a toto tempore cujus contrarii memoria homin' non existit per judicium Curie illius haberet & habere consuevit execution hujusmodi debiti per talem aliam personam tali defend' debet' & sic in manibus hujusmodi alius persone attachiat' vel tantum inde quantum attingit ad debitum per talem aliam personam in tali billa actione sive querela petitam secund' antiquam & laudabilem consuetudinem dicte Civitat' London' per duos plegios ad minus inde inveniend' si pars defendens venerit infra unum annum & unum diem extunc prox' sequent. & distracionaverit debitum predic' in tali querela sive actione content' & quod post hujusmodi securitat' inventam & execution' hujusmodi debiti in manibus & custodia hujusmodi alius persone attachiat' & detent' habit' idem defendens exoneraretur de eodem debito versus talem querent' in tali actione sive querela nominat' vel tant' inde quant' attingit ad dictum debit' sic attachiat' & quod talis alia persona in cujus manibus aliqua talis summa sic attachiat' fuit similiter exoneretur de tanta summa debiti sui versus talem defend' quanta summa sic attachiat' & unde executio habita fuit attingit tamdiu quam hujusmodi Judicium & executio in suo robore permaneant & effectus per talem defendent' vel tales defendentes minime reuertat'. Ac si aliqua persona sic indebitata post attachiament' debiti sui ab altero sibi debet' secundum consuetudinem predict' fact' non fecerit quatuor defalt. sed in Curia in qua actio sive querela affirmari contigerit ad diem retorn' attachiamenti illius sive ad aliquam trium Curiar' illar' prox' sequent. in exoneratione talis attachiamenti comperuit & manucaptos in eadem Curia invenerit qui pro tali persona sic indebitat' in tali placito sive querela manucapt' quod talis persona sic indebitat' staret rectus in Curia illa in qua talis actio sive querela affirmari contingit super tali placito & querela & defalt. ad nullum diem inde sibi dat. faceret usq; ad finem talis placiti ad quod si contingat quod Judicium versus talem personam defendent' reddit' foret super tale placit' sive querelam quod tunc talis persona versus quam Judicium illud redditum foret

solveret debita dampna & custagia in tali casu adjudicat' sive aliter corpus suum in custodia Custodis prisonis talis Cur' redderet vel in default' inde quod tales manucaptores & quilibet eorum incurrerent penam executionis pro debitis misis & custag' sic adjudicat' versus ipsos de corporibus suis habend' & fiend' & quod si tali casu Judicium reddit' sit versus talem personam sic indebitat' ac talis persona non solveret debita dampna misas & custag' sic adjudicat' nec reddat se in custodiam Custodis prisonis talis Cur' in exoneratione manucaptor' suor' quod tunc & in tali casu executio pro debitis dampnis misis & custag' sic adjudicat' fiet versus tales manucaptores sive aliquem eorum de corporib' terris sive cattallis suis infra libertatem ejusdem Civitatis existentibus que quidem consuetudines & omnes alie consuetudines Civitat' illius autoritate Parliamenti Domini Richardi nuper Regis Anglie post Conquestum secundi apud Westmonasterium in Com' Middlesex anno Regni sui septimo tent' tunc Majori & Communitat' dict' Civitat' & successorib' suis ratificat' fuerunt, Et predict' Thomas Cox & Johannes Boyse ulterius dicunt quod ante pred' tempus quo supponitur transgressionem predict' fieri scilicet viceffimo sexto die Decemb' anno Regni dicti Domini Regis nunc viceffimo tertio ad Parochiam & Wardam predict' quidam Franciscus St Aubyn indebitat' fuit prefat' Thom' Cox in quinquagint' libris legalis monete Anglie super quodam computo inter eos ante tempus illud fact' Quibus quidem quinquagint' libris insolitis existent' predict' Thomas Cox postea & ante predict' tempus quo supponitur transgressionem predict' fieri scilicet predict' viceffimo sexto die Decembris Anno Regni Domini Regis nunc viceffimo tertio venit in propria persona sua in Cur' dicti Domini Regis tunc tent' coram Jonathan Dawes milit' tunc uno Vicecom' Civitat' predict' in computatorio suo scituat' in Parochia Sancti Michaelis in Woodstreet in Warda de Cripplegat' London' secundum consuetudinem per totum tempus predict' infra eandem Civitat' usitat' & adtunc & ibidem secundum consuetudinem predict' affirmavit quandam querelam suam versus quendam Franciscum St. Aubyn in placito debiti super demand' predict' quinquagint' librar' & superinde predict'. Thomas Cox adtunc & ibidem in eadem Curia Civitat' predict' secundum consuetudinem ejusdem Civitat' a tempore cujus contrar' memoria hominum non existit usitat' & approbat' invenit plegios de prosequend' querelam suam predict' videlicet Johannem Denn & Richardum Fenn & superinde predict' Thomas Cox adtunc & ibid' petit processum sibi fieri in & super querelam suam predict' versus prefat' Franciscum St. Aubyn secundum consuetudinem Civitatis predict' a toto tempore supradict' usitat' & approbat' super quo adtunc & ibidem secundum consuetudinem

Ci-

Civitat. predicta. a toto tempore supradict' usitat. & approbat. ad petitionem predict' Thom' Cox preceptum fuit per prefat. Jonathan Dawes adtunc unum Vic' Civitatis predict' in eadem Cur. predict' cuidam Thom' Twelves adtunc uni servientium ad clavam ejusdem Vicecom' ac ministr. Cur. illius quod ipse secundum consuetudinem Civitat. predictae toto tempore supradicto usitat' & approbat' summone- ret prefat. Franciscum St. Aubyn essend. ad prox' Cur. dicti Domini Regis nunc coram prefat. Jonathan Dawes adtunc uno Vic. Civitat. predict. in Guilhald. Civitat. predict. sci- tuat. in Parochia Sancti Michaelis in Woodstreet in Warda de Criplegat London. dicto viceffimo sexto die Decembris anno viceffimo supradicto tenend. ad respondend. prefat' Thome Cox in placito querele sue predict' secundum con- suetudinem Civitat' predict. a toto tempore supradic. usi- tat' & approbat. Ad quam quid' prox. Cur. dicti Domini Regis nunc coram prefat. Jonathan Dawes uno Vicecom. Ci- vitat. predict. in predict. Computatorio suo supradict. viceffimo sexto die Decembris anno viceffimo tertio supradict. secundum consuetudinem Civitat. pred. a toto tempore supradicto usitat. & approbat. tent. predict' Thomas Twelves adtunc unus servien. ad clavam ac minister Cur. predict. retornavit & certificavit eidem Cur. quod predict. Franciscus St. Aubyn nihil habuit infra libertat. Civitatis predict. per quod aut ubi summoneri poterit secundum consuetudinem Civitatis predict. nec fuit invent. infra libertatem Civitat. predict. super quo postea scilicet adtunc scilicet ad istam eandem Cur' dicti Domini Regis nunc coram prefat. Jona- than Dawes uno vicecomitum Civitat. predict. in computa- torio suo predict. secundum consuetudinem Civitatis predict. predict. Thomas Cox testificavit & certificavit eidem Cur. coram prefat. Jonathan Dawes uno Vicecom. Civitat. pre- dict. quod quidam Edwardus Nele adtunc indebitat. fuit prefat. Francisco St. Aubyn in vigint. & quinque libris legalis monete Anglie ut de vero & justo debito & ean- dem denariorum summam in pecuniis numeratam adtunc habuit in manibus & custod. ipsius Edwardi Nele infra li- bertat. ejusdem Civitat. & adtunc & ibidem petiit ab ea- dem Cur. quod predict. Francisc. St. Aubyn per predict. vi- ginti & quinque libr. in manibus & custodia predict. Ed- wardi Nele existen' secund. consuetudin. Civitat. predict. a toto tempore supradicto usitat. & approbat. atrachia- ret. ad respondend. prefat. Thomæ Cox in placito querele sue predict. Ideo ad petition' predict. Thome Cox. adtunc & ibidem ad istam eand. Cur. Dicti Domini Regis nunc coram prefat. Jonathan Dawes uno Vic. Civitat. predict. in predict. computat. suo predict. viceffimo sexto die Decem- bris anno viceffimo tertio supradicto secundum consuetudi- nem Civitat. predict. tent. precept. fuit per prefat. Jona-

than Dawes unum vic. Civitat. predict. prefat. Johanni Boyse uni servien. ad clavam ejusdem vic. ac ministr. Cur. predict. quod ipse secundum consuetudinem Civitat. predict. a toto tempore supradicto usitat. & approbat. attachiaret predict. Francisc. St. Aubyn per predict. viginti & quinque libras in pecuniis numeratis in manibus & custod. prefat. Edwardi Nele existen. & eadem viginti & quinque libras in manibus & custod. ipsius Edwardi Nele secund. consuetudinem Civitat. predict. a toto tempore supradicto usitat. & approbat. defenderet ita quod predict. Franciscus St. Aubyn esset ad prox. Cur. dicti Domini Regis nunc coram prefat. Jonathan Dawes uno vic. Civitat. predict. in Guilhald Civitat. predict. secundum consuetudinem Civitat. predict. a toto tempore supradicto tenend. ad respondend. prefat. Thome Cox in placito querele sue predict. secundum consuetudinem Civitat. predict. a toto tempore supradicto usitat. & approbat. Ante quam quidem prox. Cur. scilicet ad eandem Cur. Domini Regis Civitat. predict. coram prefat. Jonathan Dawes tunc uno Viccom. Civitat. predict. apud Guilhald. predict. ut prefert. tent. predict. Franciscus secundum consuetudinem predict. in eadem Cur. super attachiament predict. modo & forma predict. servit & execut in exoneratione predict. viginti & quinque librar. modo & forma predict. attachiat. compevit & in custod. predic. Jonathan Dawes custodis prison. Cur. ill' captus fuit & superinde in istam eandem Cur. predict. Franciscus St. Aubyn secundum consuetudinem predict. in placito & querela predict. manucaptores in eadem Cur. invenit scilicet Johannem Tremain Gen. predict. Carew Pearse & Ben. Woodnot qui pro seipsis in eadem Cur. secundum consuetudinem predict. manuceperunt quod predict. Franciscus St. Aubyn stare rectus in Cur. illa super placito & querela predict. & default ad nullum diem inde faceret nec se retraheret usque ad finem placii predict. ac si contingeret quod Judicium superinde versus predict. Franciscum redditum foret quod predict. Franciscus solveret debitum dampna misas & custag. versus ipsum adjudicat. seu aliter corpus suum in custod. custodis prison. Cur. ill' redderet vel super default. inde ipsi predict. Johann. Tremaine Carew Pearse & Benjaminus Woodnot incurrerent & quilibet eorum incurreret penam execution' pro debit. dampnis misis & custag. sic versus predict. Franciscum adjudicat. versus ipsos de corporib. suis habend. & fiend. Et superinde ipse predict. Francisc. in eadem Cur. in placito & querela predict. ponit loco suo Longworth Crosse Attorn. suum pro ipso predict. Francisco secund. consuetudinem Civitat. predict. & ad tunc & ibidem per eanlem Cur. traditur in ballium per ma-

manuautores predict. Et iidem Thomas Cox & Johannes Boyse ulterius dicunt quod postea scilicet ad Cur. dicti Domini Regis nunc coram prefat. Vicecom. decimo septimo die Januarii anno supradicto apud Guilhald. ejusdem Civitat. tent. usque quam quidem Cur. continuat. fuit processus inter ipsum predict. Franciscum & predict. Thom. Cox in querela & placito predict. per Attornat. suos predict. talit. processum fuit quod adtunc & ibidem considerat. fuit per eandem Cur. secundum consuetudinem Civitat. predict. quod idem Thomas Cox recuperaret versus predict. Franciscum St. Aubyn predict. debet. quinquagint. librar. necnon octo solid. & sex denar. pro misis & custag. que sustin. tam occasion' detentionis debiti ill. quam pro misis & custagiis suis per ipsum circa festam suam in ea parte expositis per eandem Cur. adjudicat Et predict. Thomas Cox & Johannes Boyse ulterius dicunt quod predict. Franciscus debet & dampna predict. prefat. Thom. Cox nondum satisfecit sed se ab executione Judicii predict. retraxit & corpus suum in custodia custodis prison. Cur. predict. non reddidit & superinde secundum consuetudinem Civitat. predict. a toto tempore cujus contrar. memoria hominum non existit postea scilicet decimo octavo die Januarii Anno Regni dicti Domini Regis nunc vicesimo tertio apud London. predict. in Parochia Sancti Michaelis in Woodstreet predict. precept. fuit per Cur. dicti Domini Regis computator. predict. secundum consuetudinem predict. Civitat. adtunc & ibidem coram Vicecom. predict. tent. eidem Johanni Boyse tunc & adhuc uni servient. ad clavam predict. Vicecom. & ministr. Cur. predict. quod caperet predict. Carew Pearse si inventus foret infra libertat. Civitat. predict. & eum salvo custodiret ita quod habere potuisset corpus ejus ad prox. Cur. dicti Domini Regis coram Vicecom. predict. secundum consuetudinem predict. vicesimo octavo die Januarii predict. tenend. ad satisfaciend. prefat. Thom. Cox de debet. & dampn. predict. virtute cujus quidem precept. postea scilicet dicto tempore quo, &c. idem Johannes Boyse tunc unus servient. ad Clavam prefat. Vicecom. & ministr. Cur. predict. existen. ac predict. Thom. Cox in assistantia ejusdem Johannis Boyse ac ad monstrand. predict. Carew Pearse predict. Johanni qui adtunc ipsum non cognoscebat ipsum Carew Pearse apud London. in Parochia & Warda predict. ac infra libertatem Civitat. predict. & Jurisdiction. Cur. predict. in narratione predict. mentionat. per corpus suum ceperunt & arrestaver. & in prisona Computatorii prefat. Vic. deliberaver. prout eis bene licuit & ipse idem Carew in Prisona ibidem per spatium sex dierum ex causa predict. detent. fuit que quidem captio & arrestatio & in Prisona ipsius Carew in forma predict.

A Rule to keep inferior Courts

& ex causa predict. fact. sunt idem resid. transgr. predict. unde pred Carew superius se modo querit. Et hoc parat. sunt verificare unde petunt Judicium si predict. Carew actionem suam predict. inde versus eos habere seu manutenere debeat, &c.

Replica-
tion.

Et predict. Carew Pearse dic. quod ipse per aliqua per prefat. Thom. Cox & Johannem Boyse superius placitando allegat. ab actione sua predict. inde versus eos habend. precludi non debet quia dicit quod bene & verum est quod predict. Thomas Cox predict. vicesimo sexto die Decembris Anno Regni dicti Domini Regis nunc vicesimo tertio supradicto in predict. Cur. dicti Domini Regis nunc tent. coram prefat. Jonathan Dawes Mil tunc uno Vic. Civit. predict. in Computatorio suo scituat. in Parochia Sancti Michaelis in Woodstreet in Warda de Cripple-gate London. affirmavit querelam suam predict. versus predict. Franciscum St. Aubyn in placito debiti super demand. quinquagint. librar. quodque ad predict. Cur. dicti Domini Regis Civitat. predict. coram prefat. Jonathan Dawes tunc uno Vicecom. Civitat. predict. ad Guilhald. predict. Franciscus St. Aubyn in eadem Cur. super attachiament. predict. modo & forma predict. servit. & execut. in exoneratione predict. viginti & quinque librar. modo & forma predict. attachiat comperuit & in Custodia predic. Jonathan Dawes Custod. Prison. Cur. illius captus fuit & superinde in eadem Cur. ipse predict. Franciscus St. Aubyn in predict. placito & querela predict. manucaptos in eadem Cur. invenit scilicet predict. Johannem Tremain Carew Pearse & Benjaminum Woodnott & superinde predict. Franciscus St. Aubyn in eadem Cur. ad tunc & ibidem per eandem Cur. tradebatur in ballium per manucaptos predict. prout predict. Thom. Cox & Johannes Boyse superius placitando allegaver. sed idem Carew Pearse ulterius dic. quod post affirmationem querele predict. & comparentiam ipsius Francisci St. Aubyn necnon post traditionem in ballium per manucaptos in Cur. predict. coram prefat. Jonathan Dawes uno Vicecom. Civitat. predict. tent. scilicet duodecimo die Januarii Anno Regni dicti Domini Regis nunc vicesimo tertio supradicto in eadem Cur. coram predict. Jonathan Dawes uno Vicecom. Civitat. predict. in Guilhald. Civitat. predict. idem Thom. Cox super querelam suam predict. narravit versus eundem Franciscum St. Aubyn de eo quod predict. Francisc. vicesimo quinto die Decembris Anno Regni dicti Domini Regis nunc vicesimo tertio supradicto in Parochia Sancte Hellene pro diversis denariorum summis per ipsum Franciscum eidem Thome Cox prius debet. concessitolvere prefat. Thome predict. quinquagint. libras cum inde requisit. fuisset predict. tamen Fran-

Franciscus licet sepius requisit, &c. predict. quinquagint. libras aut aliquem inde denar. prefat. Thome nondum solvisset sed ill' ei solvere usque tunc contradixisset & adtunc contradixit ad dampnum ipsius Thome vigint. librar. & inde tunc produxit sextam, &c. ubi revera & de facto causa Action. ill' in querela & narratione predict. mentionat. emergebat & accrevit eidem Thome Cox extra predict. Civitat. London. & extra jurisdictionem Cur. illius videlicet apud Parochiam Sancti Clemen. Dacor. in Com. Middlesex. & non infra predict. Civitat. London. & Jurisdiction. Cur. illius ac ubi revera idem Franciscus nichil tenuit de eodem Vicecom. nec infra Franches. nec Jurisdiction. Cur. ill. ac ubi revera idem Jonathan D. Judex Cur' predict nullam habuit potestatem tenendi placitum predict. nec audiend. & determinand. causam predict. sic extra Jurisdiction. Cur. predict. emergen. & accrescen. per legem terre hujus Regni Anglie nec per Litteras Paten. Domini Regis nunc nec alicujus Progenitorum suorum nuper Regum vel Regina- rum Anglie nec per aliquam legitim. prescription. de tempore cujus contrar. memor. homin. non existit usitat. & approbat. Et predict. Carew Pearse ulterius dicit quod ipse idem Francisc. St. Aubyn in eadem Cur. eodem duodecimo die Januarii anno vicesimo tertio supradicto absque aliqua licentia interloquendi in propria persona sua veniebat & placitabat ad Jurisdiction. Cur. predict. quod causa actionis predict. accrevit eidem Thome Cox extra Jurisdictionem ejusdem Cur. videlicet apud Parochiam Sancti Clementis Dacorum in Com. Middlesex. extra Jurisdictionem ejusdem Cur. & traversabat quod causa actionis predict. accrevit eidem Thom. Cox infra jurisdictionem ejusdem Cur. Et hoc adtunc & ibidem paratus fuit verificare unde idem Franciscus petiit judicium si eadem Cur. ibidem placitum predict. ulterius cognoscere voluisset aut debuisset Et idem Franciscus adtunc & ibidem in eadem Cur. in propria persona sua obtulit ad veritat. placiti sui predict. super corporale Sacramentum suum in eadem Cur. super sacrosanct. Dei Evangel. prestand. affirmand. & proferend. idem tamen Jonathan Dawes mil. unus Vic. Civitat. predict. ejusque deputat. Judex Cur. illius placitum predict. & allegation. illam admittere seu recipere penitus recusavit & Judicium in eadem Cur. versus Franciscum St. Aubyn pro eodem Thoma in Actione predict. adtunc & ibidem de facto reddidit & intrari causavit per default. quasi predict. Franciscus nichil in contrarium inde dixisset seu placitasset. Et superinde postea scilicet predict. decimo nono die Januarii Anno vicesimo tertio supradicto apud London. predict. in Parochia & Warda predict. Idem Carew Pearse per predict. Johannem Boyse & Thom. Cox capt. & arrestat. fuit &

in prifona in executione pro debito & dampnis predict. detent. fuit de injuria ipsius Johannis Boyse propria sub colore processus extra eandem Cur. emanan. ex causa predict. prout idem Carew superius se modo queritur ubi revera totus processus in eadem Curia post recusation. placiti predict. penitus vacuus fuit & coram non Judice. Et hoc parat. est verificare unde pet. Judicium & dampna sua occasione transgressionis predict. sibi adjudicari, &c.

Dawes Vicecomes.

Inter Thom. Cox quer. & Franciscum St. Aubyn Defens. in placito debiti.

Et predic. Franciscus St. Aubyn in propria persona sua venit & dicit quod Curia Domini Regis nunc hic cognition. placiti predict. habere non debet Quia dicit quod causa Actionis predict. accrevit eidem Thom. Cox extra Jurisdiction. hujus Curie scilicet apud Parochia Sancti Clementis Dacorum in Comitatu Midd. Absque hoc quod causa Actionis predic. accrevit eidem Thome Cox infra Jurisdiction. hujus Curie prout per narration. predict. superius supponitur. Et hoc paratus est verificare unde petit Judicium Si Curia Domini Regis hic placitum predict. ulterius cognoscere velit aut debeat, &c.

Cest Plea fuit plead al. Action. sur concessit solvere in le Court del Vicount in London. & tender sur serement devant Imparance quel plea fuit disallow pur le Judge del dit Court & Judgment entra pur le Plaintiff per default & puis le Defend. move le Court del Bank le Roy pur Prohibition. Et a luy fuit grant ; le Suggestion ensue.

Angl.

J. **M**emorandum quod die Martis proxime post Octabas Sancti Hillarii isto eodem Termino coram Dom. Rege apud Westmonasterium venit Franciscus St. Aubyn in propria persona sua & dat Curie Domini Regis hic intelligi & informari quod cum per Statut. in Parlamento Domini Edwardi primi nuper Regis Anglie apud Westm. in Comitatu Midd. vicesimo quinto die Aprilis Anno Regni sui tertio tent. edit. (inter alia) inactitat. & stabilit. existit Autho. itate ejusdem Parliamenti de Magnatibus & eorum Ballivis & aliis (except. Ministris Regis quibus ad hoc faciend. specialis Autoritas data foret) qui querimoniam aliquorum vel Autoritate sua propria attacharent alios cum bonis suis per eorum libertat. transeuntes ad respondend. coram eis de contractibus conventionibus vel transgressionibus extra eorum potest. & Jurisdiction. fact.

*Coke 2 In-
stit. f. 229.
Reg. Orig.
98.*

fact. ubi nihil tenuerunt de eis nec infra Franchefias ubi eorum potestas foret in prejudicium Domini Regis & Corone sue & ad dampnum populi provisum sit quod nullus deinceps ita faceret Et si aliquis ita faceret redderet ei qui ea occasione attachiat. foret dampna sua duplicata & esset in gravi Misericordia Domini Regis prout per Statut. predict. (inter alia) plenius liquet & apparet Quidam tamen Thom. Cox premissorum non ignarus sed machinans & intendens ipsum Franciscum St. Aubyn contra formam Statuti predict. minus rite & indebite. pregravare opprimere & defatigare in Curia dicti Domini Regis nunc de Recordo tenta coram Jonathan Dawes Milite Aldermano uno Vicecomit. Civitat. London. in Computatorio suo scituat. in Parochia Sancti Michaelis in Woodstreet in Warda de Criplegate trahereque extra Jurisdiction. ejusdem Curie emergebat & accrevit Necnon legi Communi hujus Regni Anglie cuilibet subdito de Jure debite derogare & obviare debet. juris cursum subvertere & exitus & proficua que ad Dominum Regem nunc inde contingere possint & ad Coron. suam Regiam specialiter spectant & pertinent diminueri in dicta Curia dicti Domini Regis nunc de Recordo ibidem tenta die Martis vicesimo sexto die Decembris Anno Regni Domini Caroli secundi nunc Regis Anglie, &c. vicesimo tertio coram prefato Jonathan Dawes Milite Aldermano uno Vicecomit. Civitat. predict. secund. consuetudin. Civitat. predict. a tempore cujus contrarii memoria homin. non existit usitat. & approbat levavit quandam querelam versus predict. Franciscum St. Aubyn in placito predict. super demand. quinquaginta librarum Et ipsum Franciscum Sr. Aubyn pretextu querele predict. in forma predict. levate & affirmate per Ministrum suum Curie predict. per bona & catalla ipsius Francisci per Jurisdictionem Curie predict. transeuntia adtunc & ibidem attachiari fecisset & procurasset ipsumque Franciscum in eadem Curia comparere & prefato Thome Cox de & in premissis respondere minus juste astrinxit. Ac superinde postea in eadem Curia tenta duodecimo die Januarii Anno Regni dict. Domini Regis nunc vicesimo tertio coram prefato Jonathan Dawes Aldermano uno Vicecom. Civitat. predict. in Guilhalda Civitat. predict. idem Thomas super querelam suam predict. narravit versus eundem Franciscum eo quod predict. Franciscus vicesimo quinto die Decembris Anno Domini Regis nunc. vicesimo tertio in Parochia sancte Hellene London pro diversis denariorum summis per ipsum Franciscum eidem Thome prius debitis concessisset solvere prefato Thome quinquaginta libras cum inde requisitus fuisset, predict. tamen Franciscus licet sepius requisitus, &c. predict. quinquaginta libr. aut aliquem inde denarium prefato Thome adtunc non solvisset sed illas ei solvere usque tunc contradixisset & adtunc contradixit ad dampnum ipsius

A Rule to keep inferior Courts

ipſius Thome viginti librarum ut dixit Et inde produxit ſectam, &c. Ubi revera & de facto predict. cauſa Actionis illius in querela & narratione predicta ſuperius mentionat. emergebat & accrevit eidem Thom. Cox extra predict. Civitat. London. & extra Jurisdiction. Curie illius ſcilicet apud Parochiam ſancti Clementis Dacorum in Comitatu Midd. & non infra predict. Civitat. London. & Jurisdiction. Cur. illius Ac ubi revera idem Franciſcus nichil tenuit de illa nec infra Franchef. nec Jurisdictionem Curie illius Ac ubi revera idem Jonathan Dawes Judex Curie predict. nunquam habuit poteſtat. tenendi placit. predict. nec audiend. & determinand. placit. predict. ſic extra Jurisdiction. Curie predict. ſic ut preſat. emergen. & accreſcen. per legem terre hujus regni Anglie nec virtute Literarum Patentium Domini Regis nunc nec alicujus progenitorum ſuorum nuper Regum vel Reginarum Angl. nec per aliquam legitim. preſcription. a tempore cujus contrarii memoria homin. non exiſtit uſitat. & approbat. Ac licet ipſe idem Franciſc. in eadem Curia abſq; aliqua licentia interloquendi in propria perſona ſua placitavit ad Jurisdiction. ejuſdem Curie quod cauſa actionis accrevit eidem Thome extra Jurisdiction. ejuſdem Curie & traversavit quod cauſa Actionis predict. accrevit infra Jurisdiction. ejuſdem Curie Ac omnia & ſingula per ipſum ſuperius ſuggeſta & allegata in ejus exoneration. in predict. Curia dicti Domini Regis nunc tenta coram preſato Jonathan Dawes duodecimo die Januarii Anno Regni dicti Domini Regis nunc viceſimo tertio apud Guilhald. Civitat. predict. ſcituat. in Parochia ſancti Laurentii in veteri Judaismo in Warda de Cheape in propria perſona ſua placitaverit & allegaverit Ac illa per Sacrament. ſuum verificare & inevitabili veritate & teſtimonio probare ſepius obtulerit pred tamen Jonathan Dawes Aldermanus unus Vicecom. Civitat. predict. ejuſque Deputatus Judex Curie illius placit. predict. & allegation. illam admittere ſeu recipere penitus recuſavit & Judicium in eadem Curia verſus ipſum Franciſcum pro eodem Thoma in Actione predict. adtunc & ibidem reddidit & intrari de Record. cauſavit per default. tanquam predict. Franciſcus nichil dixiſſet in barram ſive precluſion. Actionis ipſius Thome predict. in dicti Domini Regis nunc contempt. & ipſius Franciſci dampn. prejudicium & gravamen non modicum contra legem terre hujus regni Anglie & contra formam Statuti predict. Et hoc paratus eſt verificare unde idem Franciſcus Auxilium & munificentiam Curie dicti Domini Regis nunc humilime implorando petit ſibi remedium ſeſſinum & breve dicti Domini Regis nunc de Prohibitione predict. Jonathan Dawes ejuſque in hac parte Deputato Judici Curie predict. ac cuilibet alio Judici in hac parte competent. cuicunque necnon preſato Thom. Cox Conſiliariis Aſſortatori

tis & Sollicitoribus suis in hac parte quibuscunque dirigendum ipsos & eorum quemlibet ne ipsi seu eorum aliquis in causa predict. premissa predict. quovis modo tangente in Curia pred. coram prefato Jonathan Dawes Judice Curie predict. vel aliquo eorum ulterius procedere presumant ne quicquid amplius in ea parte coram eis vel aliquo eorum attemptent seu eorum aliquis attemptet quod in lesionem vel derogationem Corone dicti Domini Regis nunc vel in legis contempt. vel in ipsius Francisci dampn. aut prejudicium cedere valeat quovismodo sub Violatoris Legis Domini Regis nunc penam periculo incurrendi sed quod ab omni ulteriori prosecutione versus ipsum Franciscum in premissis in predict. Curia dicti Domini Regis nunc coram eis vel aliquo eorum penitus desistant & quilibet eorum desistat. Ac quod iudicium predict. versus ipsum Franciscum sit ut prefertur redditum & de Recordo intratum idem Judex revocari faciat indilate Et si quicquam amplius inde in contrarium premissorum factum sit illud eidem Francisco sine dilatione emendari faciat periculo incumbenti. Etei conceditur, &c.

BY all the said Records it appears that an Action of Debt was brought upon a simple Contract in the Sheriff's Court in *London*, and that the Defendant put in Bail: And because the Cause of Action accrued out of *London*, the Defendant before Impar lance (or he might have done it after a special Impar lance) did come in proper Person into the Court, and produced a Plea in Writing, that the Cause of Action did accrue out of *London*, and out of the Jurisdiction of that Court, and offered to swear the Plea to be true; whereupon the Judge of the Court in *London* refused to accept of the Plea, and entered Judgment. For Remedy against which Proceedings, the Defendant moved for, and obtained in the Court of King's Bench a Writ of Prohibition, directed to the Judge of the Court in *London* to command him to cease Prosecution upon the said pretended Judgment; but before the same could be served *Carew Pearse*, one of the Bail, was taken in Execution and detained until upon Motion in the King's Bench, by Consent of the Plaintiff in the Action, and of the Judge and Clerks of the Court in *London*, he was set at Liberty, and the pretended Judgment vacated. Then *Carew Pearse* being advised that the said pretended Judgment was *Coram non Judice*, and so void in it self, without any Writ of Error, or other Means to reverse the same, brought an Action of False Imprisonment in the King's Bench against the Plaintiff in the Action

A Rule to keep inferior Courts

Action in *London*, and the Serjeant at Mace who arrested him upon the said pretended Judgment. To which the Defendants in the King's Bench pleaded the pretended Judgment in *London*, and the Process thereupon (as aforesaid) and so would justify the Imprisonment. To which Plea the Plaintiff *Gaww Pearse*, by Replication, pleaded the Invalidity of the Judgment in *London* for the Reasons before set forth; and the Plaintiff in the King's Bench gave a Rule to the Defendants to rejoin in *Hillary Term* last past: Whereupon the Defendants in the King's Bench (one of whom was Plaintiff in *London*) compounded the Suit, and paid the Plaintiff in the King's Bench his Costs and Damages. Know therefore, Reader, That if any Bond or Contract, or other Action be made, or do arise out of a County where it is sued in the County-Court, or out of any Corporation or Manor, and be sued in the Court of the Corporation or Manor, the Defendant may avoid the Action by the Means before prescribed; so as he come before Imparlance, or after a special Imparlance in Person into Court and plead, as aforesaid (*mutatis mutandis*) and offer to swear his Plea: By which all inferior and limited Jurisdictions may be kept within their due Bounds, and may learn not to run themselves and Officers into danger of having Actions brought against them, and being forced to pay Costs and Damages for their rash and unadvised Actions.

Also by this last mentioned Writ of Prohibition, it appears, That if any inferior Court shall divide a joint Action into three or four, by entring several Plaints of small Sums, such as the same Court can hold Plea of, and so wrongfully to give Jurisdiction to the inferior Court; the Courts at *Westminster* will grant a Prohibition, and release any Distress or Arrest made by or upon such illegal Proceedings; and the Procurers of such illegal Proceedings may be punished for such Offence.

The Reader may further take Notice, That in *Hillary Term*, in the 33d and 34th Year of King *Charles* the Second, in the King's Bench, between *Cholmeley* and *Morton*, which is entred in *Michaelmas Term*, 33 C. 2. Roll. It was declared by that Court upon Argument, That though a Defendant in an inferior Court did plead in Bar, yet if he (after that before Trial) did make Oath that the Cause of Action did arise out of the Jurisdiction of the inferior Court, and not within it, the King's Bench would grant a Prohibition: And that the same Term, in the same Court, between *Cole* and *Brandwood*, in *Colchester-Court*; and between *Strong* and *Spetchurst* in the *Palace-Court* (vulgarly called the

the *Marshal's-Court*) between *Waterfall* and *Clerk* in the Court of *Burton upon Trent* in *Staffordshire*, upon like Oath made, several Prohibitions were granted, and Prisoners delivered out of Gaol. And also that in a Cause between *Fulford* and *Coppin*, H. 33 & 34 Car. 2. Roll. 605. In a Writ of Error of a Judgment in the said Palace-Court, after a *Habeas Corpus* was tendred and disallowed (though Issue was not joined within six Weeks after the Plaintiff declared.) Error was assigned, That the Cause of Action arose out of the Jurisdiction of the Court, and not within it, and upon *In nullo est erratum* pleaded, and Argument thereupon, the Judgment was reversed in *Easter Term*, 34 Car. 2. As appears by the Books of Rules, and Number-Rolls of the several Terms and Years respectively above-recited.

THE

T H E
A P P E N D I X.

Anno XXVII

Elizabethæ Reginae.

An ACT for the good Government
of the City and Burrough of *West-*
minster in the County of *Middle-*
sex.

The Pre-
amble of
the Act.

FOrasmuch as by Erection and new Build-
ing of divers Houses, and by the Parting
and Dividing of divers Tenements within the
City of Burrough of Westminster. and the Liberties
of the same, the People thereof are greatly encreas-
ed, and being for the most Part without Trade or
Mystery are become Poor, and many of them whol-
ly given to Vice and Idleness, living in Contempt
of all manner of Officers within the said City, for
that their Power to correct and reform them is
not sufficient in Law, as in that Behalf were meet
and requisite :

Be it therefore Ordained by the Queen's most
Excellent Majesty, the Lords Spiritual and Tem-
poral, and the Commons in this present Parlia-
ment

ment Assembled, and by the Authority of the same, That the said City of Burrough of Westminster, the Liberties, Territories, and Precincts of the same, shall be, and for ever hereafter continue severed and divided, as it hath been accustomed, into Twelve severall Divisions, to be called or known by the Name of Wards, the same to be and continue by such Limits, Petes and Divisions, as heretofore hath been commonly taken or known.

The City or Burrough of Westminster, and Liberties thereof, shall be divided into twelve Wards.

And for the better Ordering and Government of the People inhabiting and being within all and every the Wards aforesaid, and for repressing and Rooting out of Vice there used: Be it further Ordained by the Authority aforesaid, That the Dean of the Collegiate Church of St. Peter's of Westminster, or his Successors, or the High-Steward there for the Time being, or his lawful Deputy, shall upon Thursday in Easter-week, next after the End of this Session of Parliament, and so yearly for ever hereafter, nominate and elect twelve sufficient Persons, being Merchants, Artificers, or Persons using any Trade of Buying or Selling within the said City or Burrough, or such other Persons as shall be willing thereunto, and inhabiting within the said City or Burrough, and the Liberties of the same, which shall be called by the Name of Burgeses; Unto the Government of every which Burgeses, one of the said twelve Wards shall be, by the said Dean, and High-Steward, or his lawful Deputy, for the Time being, appointed and limited; which said twelve, and every of them, shall accept their Election, and shall continue in his said Room for one Year next ensuing, and so from Year to Year during his or their natural Lives, if they shall so long inhabit there, except for some Offence or Misgovernment by them or any of them committed; (and unless for Cause reasonably proved) they shall be displaced by the Dean of Westminster, or High-Steward there, for the Time being: And if any Person or Persons

The Dean of Westminster, or High-Steward, or his Deputy, shall yearly on Thursday in Easter-week for ever, nominate and elect twelve Persons to be Burgeses.

The Qualification of the Persons to be chosen Burgeses. The Dean and High-Steward, or his Deputy, shall appoint the Government of a Ward to every of the twelve Burgeses.

They shall accept their Election, and conti-

nue for one Year, and from Year to Year during Life. A Burges not to be removed but for Offence or Misgovernment. The Dean of High-Steward may displace a Burges for a good Cause shewn.

resiant,

A Refiant refusing to accept the Place of a Burges, shall forfeit ten Pounds to the Poor of Westminster.

The Bailiff of Westminster shall levy the Forfeiture by Distress.

The Burges shall take the Oath of Supremacy, and an Oath to execute the Powers of this Act.

refiant, and so nominated, shall refuse to accept the said Room, he shall forfeit ten Pounds, to the Use of the Poor within the said City or Burrough of Westminster, and to be levied by the Bailiff of the Liberties of the said Dean and Chapter, by way of Distress, to be taken and justified to the Use aforesaid; which said twelve Burges, and every of them, shall receive as well the usual Oath of Supremacy, as also a Corporal Oath to him to be ministered by the said High-Steward, or his Deputy, in open Court, to do and execute all Things to them appointed and authorized by this Act.

The Dean High-Steward, or his Deputy, with the Burges, shall ten Days after their Election, nominate twelve to be Assistants.

The Qualification of the twelve Persons to be Assistants.

The Assistants shall accept the Charge on the Penalty of five Pounds.

They shall take the Oaths before-mentioned, and be called Assistants to the Burges.

To the Government of every Ward one Assistant shall be joined to the Burges.

And for the more Aid and Assistance to perform that which, by the true Intent of this Statute, is meant to be performed, be it ordained by the Authority of this present Parliament, That the said Dean, or his Successors, or the said High-Steward, or his lawful Deputy, with the said twelve Burges, or the more Part of the said Burges, shall, within ten Days after the Election and Choice of the said twelve Burges, nominate and elect twelve others, able Persons inhabiting within the said City or Burrough, and the Liberties thereof, being Merchants, Artificers, or using any Trade of Buying or Selling within the said City or Burrough, or any other being willing thereunto, as aforesaid, to be Assistants to the said twelve Burges; and that they shall accept the same Charge upon Payment of five Pounds, to be levied of every of them that shall refuse the said Room in Form aforesaid, to be employed as aforesaid, with like Oaths, as is aforesaid; and shall be called by the Name of Assistants unto the said twelve Burges nominated to the aforesaid twelve Wards; unto every of which said Wards one of the said Assistants shall be appointed for the Government of the same, with the said Burges; which said twelve Burges, and the said

twelve

twelve Assistants, and every two of them, within the several Wards to them appointed and limited, (viz.) every Burgess, together with his Assistant, shall and may, by Vertue thereof, do and deal in every Thing and Things as Aldermens Deputies in the City of London lawfully do, or may do: And every of the said twelve Assistants shall continue in their said Office for and during one whole Year then next ensuing, if they shall continue their Habitation within the said City or Burrough, or Liberties of the same: And if any of the said twelve Burgesses, or Assistants, shall happen to die, or otherwise, upon reasonable Cause, to be removed or displaced from his said Office; that then the said Dean, or his Successors, and the High Steward for the Time being, or his lawful Deputy, shall, from Time to Time, at their Wills and Pleasure, nominate and appoint any other meet able Person or Persons of like Estate, Faculty and Quality, as aforesaid, inhabiting within the said City or Burrough, and the Liberties of the same, to supply the Place or Places of such of the said Burgesses or Assistants as shall so die, or be moved or displaced, who shall continue in the said Room until the Thursday in Easter-week then next following; and that such Person or Persons so nominated and elected, shall accept and exercise the same, upon Pain of five Pounds, to be levied and employed in Form aforesaid, and with like Oaths, as is aforesaid.

And shall accept and exercise the Office, on the Penalty of five Pounds, and shall take the like Oaths as others.

And be it further enacted, by the Authority aforesaid, That the said Dean, and his Successors, or the High Steward, or his lawful Deputy, for ever hereafter yearly upon Thursday in Easter-week aforesaid, shall nominate and appoint two Persons out of the said twelve Burgesses, to be called or known by the Name of the two Chief Burgesses, to continue in the Office for one Year then next following; which Office they and every of them shall accept, upon Pain of

twelve Burgesses. The two Chief Burgesses shall continue in their Place for one Year, and accept thereof, on Pain of ten Pounds to the Use aforesaid.

ten Pounds aforesaid, and to be levied by way of Distress to the Use aforesaid, as is before limited.

And for due Reformation of the Inconveniences and Disorders which shall or may happen within the said City, Burrough, or Liberties, be it enacted by the Authority of this present Parliament, That as well the said Dean, or his Successors, the High-Steward aforesaid, or his Deputy, as also the said two Chief Burgesses, the other ten Burgesses, or any four or three of them, whereof the said Dean, High-Steward, or his Deputy, or one of the said two Chief Burgesses, to be one, from Time to Time for ever hereafter, to be appointed during their said Office, shall and may, by Virtue of this Act, within the said City or Burrough, or the Liberties thereof, hear, examine, determine, and punish, according to the Laws of this Realm, or laudable and lawful Custom of the City of London, all Matters of Incontinencies, common Scolds, and of Immates, and common Annoyances; and likewise, that they shall have Authority to commit to Prison such Persons, as within the said City, shall offend against the Peace; and thereof shall give Notice within four and twenty Hours after to some Justices of Peace within the County of Middlesex. They may commit to Prison such as offend against the Peace; But to give Notice to some Justice of Middlesex in twenty-four Hours.

All Ordinances to be made for the Government of the Inhabitants, nor repugnant to the Prerogative of the Crown, or the Laws of the Realm, shall be of Force.

And be it further enacted by the Authority aforesaid, That all good Orders to be made by the said Dean and High-Steward, with the Assent of the Burgesses and Aldermen for the Time being, or the more Part of them, for or concerning the Government of the said Inhabitants, not repugnant to the Queen's Majesty's prerogative, nor the Laws and Statutes of this Realm, shall by Virtue of this Act, stand in full Force and Strength.

Provided, That this Act, or any Thing therein contained, shall not be prejudicial to the Steward, Marshal, or Coroner of the Queen's Majesty's Household, nor to the Authority of Justices of the Peace within the County of Middlesex, nor to the Dean and Chapter of Westminster, or their Successors, nor to the High-Steward there, or his Deputy, for the Time being, nor to the Mayor, Society, and Clerk of the Staple, High-Constable, Bailiff of the Liberty, Town-Clerks, nor to the Clerk of the Market, nor to any Search to be made by any other Officer in the said City or Burrough of Westminster, now being, or that at any Time shall be, not being contrary to the true Meaning of this Act.

The Act shall not prejudice the Marshal of the Queen's Household, nor the Steward, or Coroner thereof; nor the Authority of Justices of the Peace of Middlesex; nor the Dean of Westminster, nor

the High-Steward or his Deputy; nor the Mayor or Clerk of the Staple, High-Constable, Bailiff of the Liberty, Town-Clerks, nor Clerks of the Market. The Act shall not prejudice no Search to be made by any Officer in Westminster, not contrary to this Act.

And be it declared by the Authority of this Act, That they, and every of them, their Deputies and Assigns, shall and may have, take and enjoy all the Privileges, Authorities, Benefits, and Profits, unto them, or their said Office belonging, from Time to Time, for ever hereafter, in as ample wise, as they or any of them have had, taken and enjoyed the same at any Time heretofore, not being contrary to the true Meaning of this present Act.

The Officers before mentioned and their Deputies, may enjoy all their Rights, in as ample Manner as heretofore, if the same be not contrary to this Act. If the Dean, &c. be remiss in choosing Burgesses, two Justices of Middlesex may choose them.

Provided always, That if it shall happen at any Time hereafter, that the Dean of Westminster aforesaid, or his Successors, and the said High-Steward, for the Time being, and his lawful Deputy, and every of them, be remiss or negligent in choosing and nominating of the Burgesses aforesaid, at the Time before limited, That then it shall and may be lawful for two Justices of the Peace within the County of Middlesex, whereof one to be of the Quorum, to nominate and chuse the said Burgesses, being such Persons as aforesaid; who being so nominated and chosen by the said Justices, shall occupy and enjoy the said Rooms, upon the Pains aforesaid,

Burgesses
chosen by
Justice,
have such
Liberties as
those cho-
sen by the
Dean, &c.
Persons
chosen in
the Rooms
or others,
shall not be
compelled
to serve
more than
one Year.
Persons re-
fusing to be
Burgesses,
and paying
the Sums
therefore
imposed,
shall not be
nominated
in 5 Years.

The Chan-
cellor or
Steward of
the Duchy
of Lanca-
ster, shall
have like
Power as
the Dean of
Westmin-
ster, &c.
within the
Duchy-Li-
berty.

The Act
not to ex-
tend to the
College or
House of
Westmin-
ster, for any

aforesaid, and have and enjoy such Liberties, in all Respects, as if they had been nominated and chosen by the said Dean and High-Steward, as aforesaid.

Prohibited also, That all such Burgesses, as aforesaid, which hereafter shall be chosen, as aforesaid, to serve in any of the said Rooms or Places, shall not be compellable by this Act, to remain in the said Office or Room, above the Space of one whole Year next after such Choice or Election: And all such Persons as shall, for Refusal of any of the said Offices pay any the Sums aforesaid, shall not be nominated again to any of the said Places, within the Space of five Years then next following.

And forasmuch as there be divers Houses, Tenements and Buildings, within the Liberties of the Duchy of Lancaster, of the which said Houses, Tenements and Buildings there are certain, which are lying and being within the City or Burrough of Westminster, and divers of the same are next adjoining to the said City or Burrough, and yet the Inhabitants within the said Liberties of the said Duchy are not subject to the Government or Jurisdiction of Westminster, but have Liberties and Franchises distinct and divided by themselves; and to the Intent that one uniform Government may be in both the said Liberties of Westminster, and the Duchy, in the Places aforesaid: Be it enacted by the Authority of this present Parliament, That the Chancellor or Steward of the Duchy, for the Time being, shall have the like Power and Authority, by Vertue of this Act, in all Things, as the Dean of Westminster, and the High-Steward of the same, have by Vertue of this Act, for the better Government of the Inhabitants within the Liberties of the said Duchy, being and next adjoining to Westminster, as is aforesaid.

Prohibited always, That this Act, or any Thing or Matter therein contained, shall not extend to the Church or College of Westminster, nor

Offence within the Circuit thereof.

to the Close of Westminster, nor to any Person or Persons inhabiting within the Site, Circuit, or Precinct of the said Church, College or Close, for any Offence or Misgovernment to be committed by them, or any of them, within the Site, Circuit, or Precinct of the said Church, College, or Close, or City, or Burrough of Westminster: And that this Act, nor any Thing therein contained, shall not extend to give any Authority, Jurisdiction, or Power to the said Burgesses, to hear, examine, and determine any Thing by Vertue of this Act, without the Consent of the said Dean, or of the said High-Steward, or his lawful Deputy, or in the Absence of the said Dean, High-Steward, or his lawful Deputy, then with the only Presence and Consent of the Town-Clerk there, for the Time being, and not otherwise.

The Burgesses shall not hear or determine any Thing with or without the Dean or High-Steward, or his Deputy, or the Town-Clerk in their Absence.

And this Act to continue unto the End of the Parliament next following.

Provided also, That the Searcher, for the Time being, of the Sanctuary of Westminster, shall have and enjoy, within the Sanctuary of Westminster, the Execution and Serving of all Process, Commandmentes, and Warrants, and the Attachments, and Apprehensions of all Manner of Offenders within the Sanctuary aforesaid, and within the Site, Circuit, and Precinct thereof, in as ample Manner and Form as if this Act had never been had or made.

The Searcher of the Sanctuary shall have Execution of Process within the Sanctuary, as he might do before the making of this Act.

The Act was continued in *Anno 31 dictæ Regina Elizabethæ, cap. 10.* to the End of the Parliament then next ensuing.

And 35 *ejusdem Regina, cap. 7.* to the End of the Parliament then next ensuing.

And 39 *ejusdem Regina cap. 18.* to the End of the Parliament next ensuing.

And 42 *ejusdem Regina, to the End of the first Session of the next Parliament.*

And in *Anno primo Jacobi Primi Regis, cap. 25.* to the End of the first Session of the next Parliament.

And 21 *dicti Regis Jacobi, cap. 28.* to the End of the first Session of the next Parliament.

And in *Anno tertio Caroli Primi, cap. 4.* to the End of the first Session of the next Parliament.

And in 17 *ejusdem Regis*, in a certain Act for granting two Subsidies, for the further Relief of His Majesty's Army,

It was enacted, That all Statutes and Acts of Parliament which have their Continuance, or were by an Act of Parliament made in the third Year of his Majesty that now is, Entituled, An Act for the Continuance and Repeal of divers Statutes, continued until the End of the first Session of the then next Parliament, shall, by Vertue of this Act, be adjudged, ever since the Session of Parliament in the said third Year, to have been of such Force and Effect, as the same were the last Day of that Session, and from thenceforth until some other Act of Parliament be made, touching the Continuance or Discontinuance of the said Statutes and Acts, in the said Act of the third Year of His Majesty's Reign continued, as aforesaid.

THE

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